

**COUNTY MEDICAL SERVICES PROGRAM (CMSP)**  
**ELIGIBILITY MANUAL**

This manual includes all updates and revisions prior to and including  
CMSP ACL 03-06, dated October 28, 2003

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## **CMSP ELIGIBILITY MANUAL**

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### DETERMINATION OF COUNTY MEDICAL SERVICES PROGRAM ELIGIBILITY AND SHARE OF COST

#### Article 1. Definitions, Abbreviations and Program Terms

##### 1-010. General

The purpose of this manual is to set forth standardized definitions and eligibility criteria to be used by contract counties in the determination of an individual's or family's eligibility for CMSP covered services.

Although many provisions in this manual appear to duplicate many Medi-Cal criteria and requirements, this manual is a separate and distinct document that is to be applied to the CMSP population only.

##### 1-011. Definitions--General

The definitions in this article shall apply to the CMSP unless the context requires otherwise.

##### 1-012. Abbreviations

The following abbreviations shall apply to the CMSP:

ABD	Aged, Blind, or Disabled
ABD-MN	Aged, Blind, or Disabled--Medically Needy
BIC	Beneficiary Identification Card
BRU	Benefits Review Unit
CAAP	California Alternative Assistance Program
CalWORKs	California Work Opportunity and Responsibility to Kids Program
CFBU	CMSP Family Budget Unit
CHDP	Child Health and Disability Prevention Program
CMSP	County Medical Services Program
DAPD	Disability and Adult Programs Division
ETS	Employment Training Services
GA/GR	General Assistance/General Relief
IHSS	In Home Supportive Services
INS	Immigration and Naturalization Service
LPR	Lawful Permanent Resident
LTC	Long Term Care
MBSAC	Minimum Basic Standard of Adequate Care

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MFBU	Medi-Cal Family Budget Unit
MI	Medically Indigent
MN	Medically Needy
OASDI	Old Age Survivors and Disability Insurance
Other PA	Other Public Assistance
PA	Public Assistance
POS	Point of Service
PRUCOL	Present Under Color of Law
SSA	Social Security Administration
SSI/SSP	Supplemental Security Income/State Supplemental Payment
SSN	Social Security Number
UIB	Unemployment Insurance Benefits

### 1-013. Adequate Consideration

Adequate consideration means receiving fair value in cash or property, under the circumstances considering the net market value of the property, for property belonging to the applicant or beneficiary which is sold, converted, or transferred to another.

### 1-014. Adult

Adult means a person who is 21 years of age or older.

### 1-015. Adverse Action

Adverse action is any action in which the county department takes which results in an increase in a CFBU's share of cost or results in the discontinuance of CMSP eligibility. The following shall not be considered adverse actions:

- (A) Discontinuance due to any of the following reasons:
  - (1) Death, for a one person CFBU.
  - (2) The whereabouts of the beneficiary is unknown and the post office has returned county department mail addressed to the beneficiary indicating that he/she has moved and left no forwarding address.
  - (3) Admission to an institution which renders the beneficiary ineligible.

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- (4) It has been determined that the beneficiary has full-scope CMSP or Medi-Cal eligibility under another identity or category, or will have such dual eligibility as of the first of the next month if discontinuance action is not taken.
- (5) Resides in another county or state.
- (6) Receipt of the beneficiary's clear and signed written statement that does either of the following:
  - (a) States the beneficiary no longer wishes CMSP benefits.
  - (b) Gives information that requires discontinuance and includes the beneficiary's acknowledgement that the information supplied would result in discontinuance.
- (7) An increase in a CFBU's share of cost due to the voluntary inclusion of eligible family members who currently are not receiving benefits under CMSP.

### 1-016. Aid

Aid means cash assistance, food stamps, Medi-Cal, or CMSP.

### 1-017. Aid Category

Aid category means the specific category under which a person is eligible to receive Medi-Cal or CMSP.

### 1-018. Aid Code

Aid code means the two-digit number, or combination number and letter, which indicates the aid category under which a person is eligible.

### 1-019. Aid-Paid Pending

Aid-Paid Pending means the continuation of CMSP eligibility/share of cost without change when a CMSP beneficiary files for a hearing prior to the effective date stated on a notice of action until the hearing issue is formally decided.

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### 1-020. Appertains

Appertains means any property or structure which is connected to and is/was intended to be used as a permanent part of the property. This includes, but is not limited to:

- (A) Acreage which constitutes a farm or ranch, or
- (B) Separately assessed parcels used as a whole, or
- (C) An entire parcel or separately assessed parcels purchased or used as a whole separated by, but not limited to, any of the following:
  - (1) Easements or rights of way.
  - (2) Water courses.
  - (3) Streets, highways, or freeways.

### 1-021. Applicant

Applicant means the individual or family making, or on whose behalf is made, an application, reapplication, or request for restoration of aid.

### 1-022. Application

Application means a written request for aid using a standardized, approved form.

### 1-023. Approval of Eligibility

Approval of eligibility means the determination made by the county department that a person or family is eligible for CMSP.

### 1-024. Beneficiary

Beneficiary means a person who has been determined eligible for CMSP.

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### **1-025. Benefits Identification Card**

Benefits Identification Card (BIC) is a plastic card each individual in a MFBU or CFBU is issued which provides access to medical care, provider billing, and share of cost tracking. The BIC replaces the Medi-Cal/CMSP paper cards and may be kept after discontinuance and used again if the individual is determined eligible for either program at a later date.

### **1-026. Burial Insurance**

Burial insurance means insurance which by its terms can only be used to pay the burial expenses of the insured.

### **1-027. California Alternative Assistance Program**

California Alternative Assistance Program (CAAP) means a program which provides child-care payment or other services to CalWORKs eligible persons who do not wish to receive cash assistance payments.

### **1-028. CalWORKs**

CalWORKs means the assistance program resulting from the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 which replaced the Aid to Families with Dependent Children (AFDC) Program and its employment component, GAIN.

### **1-029. Cash Grant**

Cash grant means the monetary payment made to a person eligible for CalWORKs, SSI/SSP, RCA, ECA, GA/GR, or other public assistance program.

### **1-030. Certification Date for Claims Clearance**

Certification date for claims clearance means the date that the share of cost has been cleared through the POS device or other automated process by the provider.

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### 1-031. Certification--Effective Date

Effective date of certification means the date the person is certified eligible to receive CMSP benefits.

### 1-032. Certification for CMSP

Certification for CMSP means the determination by the county department, or the Department, that a person is eligible for CMSP with no share of cost or has met the share of cost.

### 1-033. Child

Child means a person under the age of 21 years.

### 1-034. Child Health and Disability Prevention Program

Child Health and Disability Prevention (CHDP) Program means the community-based program for early identification and referral for screening and treatment of persons under 21 years of age.

### 1-035. Competent

Competent means being able to act on one's own behalf in business and personal matters.

### 1-036. Conversion of Property

Conversion of property means changing property from one form to another without changing ownership.

### 1-037. County

"County" refers to those rural California counties which contract with the CMSP Governing Board to participate in the CMSP.

### 1-038. County Agency

County agency means either an administrative division of a county government or a non-county organization that has a contract with the county to act on the county's behalf.

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### **1-039. County Department**

County department means the department authorized by the county board of supervisors to administer the CMSP.

### **1-040. County Medical Services Program**

County Medical Services Program (CMSP) means the program authorized by Sections 16709, 16709(a), 16709(d), and 16809 of the Welfare and Institutions Code to provide for the health care of medically indigent adults residing in rural and semi-rural counties of California which contract with the CMSP Governing Board to participate in the CMSP.

### **1-041. CMSP Person or Family Member**

CMSP person or family member means a person or family member eligible for benefits under the CMSP.

### **1-042. CMSP Family Budget Unit**

CMSP Family Budget Unit (CFBU) means the person who will be included in the CMSP eligibility and share of cost determination.

### **1-043. CMSP Governing Board**

The CMSP Governing Board (CMSPGB) is comprised of county supervisors, county administrators, county welfare directors, county health administrators, and a representative of the Secretary of the California Health and Human Services Agency in accordance with the California Welfare and Institutions Code, Section 16809.4. The CMSP Governing Board shall govern the CMSP Program.

### **1-044. Department**

Department means the State Department of Health Services.

### **1-045. Dependent Relative**

Dependent relative means a relative who is either of the following:

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- (A) Claimed as a tax dependent by the applicant or beneficiary, regardless if the individual is residing with the applicant or beneficiary; or
- (B) Receiving more than one-half of his/her basic needs for food, shelter, clothing, and transportation from the applicant or beneficiary.

### 1-046. Eligibility Services

Eligibility services means those services provided by the county department relating to the initial and continuing determination of CMSP eligibility.

### 1-047. Encumbrances of Record

Encumbrances of record means obligations for which property is security as evidenced by a written document.

### 1-048. Fair Market Value

Fair market value means the amount (price) an item would sell for, if made available for sale on the open market in the geographic region where the item is located.

### 1-049. Family Member

Family member means the following persons living in the home or declared as a tax dependent:

- (A) A child or sibling child.
- (B) The married or unmarried parents of the child or sibling children.
- (C) The stepparents of the sibling children.
- (D) The separate children of either unmarried parent or of the parent or stepparent.
- (E) If there are no children, family member means a single person or married couple.

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### 1-050. Full CMSP Benefits

Full CMSP benefits means all of the services ordinarily covered by the CMSP without restriction or limitation.

### 1-051. General Assistance/General Relief

General Assistance/General Relief (GA/GR) means support provided by the County per Section 17000 of the Welfare and Institutions Code for incompetent, poor, and indigent persons who are not supported and relieved by their relatives, friends, their own means, or other state or private program or institution.

### 1-052. Heirloom

Heirloom means any item of personal property other than cash, securities, or other liquid resources which has substantial sentimental value, has been owned by the same family for at least two generations, and is intended to be retained by the same family in succeeding generations.

### 1-053. Immigration and Naturalization Service

Immigration and Naturalization Service (INS) means the branch of the United States Government that administers regulations regarding aliens in, and immigration to, the United States.

### 1-054. In Home Supportive Services

In Home Supportive Services (IHSS) means the social services program which provides necessary personal and domestic care so that aged, blind, and disabled persons may remain in their homes. IHSS beneficiaries also receive Medi-Cal coverage.

### 1-055. Inmate

Inmate means a person either living or being cared for in an institution, or a person under the direct control of a penal authority, such as an individual under house arrest. Excluded from this definition are persons residing at a facility for vocational training or educational purposes, and persons temporarily in an institution pending more suitable arrangements, such as children in a local agency facility pending foster care placement.

### 1-056. Institution

Institution means an establishment which provides food and shelter to four or more persons unrelated to the proprietor and, in addition, provides some treatment or services which meet needs beyond basic provision of food and shelter.

### 1-057. Institution--Medical

Medical institution means any public or private acute care hospital, acute psychiatric hospital, intermediate care facility, skilled nursing facility, or other medical facility licensed by an officially designated state standard setting authority.

### 1-058. Institution--Mental Diseases

An institution for mental diseases means an institution primarily engaged in providing diagnosis, treatment, or care for persons with mental illness.

### 1-059. Institution--Nonmedical

Nonmedical institution means any institution providing nonmedical residential care, custodial care, custody, or restraint. This includes penal institutions.

### 1-060. Institution--Private

A private institution means a proprietary or nonprofit facility managed and controlled by an individual, private association, or corporation.

### 1-061. Institution--Public

Public institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. Excluded from this definition are medical facilities and publicly operated community residences designed to serve and serving no more than 16 persons.

### 1-062. Institution--Tuberculosis

Tuberculosis institution means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services.

### 1-063. Intraprogram Status Change

Intraprogram status change means a change in a person's or family's eligibility from one aid category to another aid category, in which the first digit of the aid code remains the same.

### 1-064. Life Estate

Life estate means a legal arrangement whereby the beneficiary (i.e., the life tenant) is entitled to the use and/or income from the property for his or her life. Upon the death of the life tenant, the property will revert to the holder of the remaining interest or to the grantor.

### 1-065. Life Insurance

Life insurance means a contract from which premiums are paid during the lifetime of the insured and on which the insuring company pays the face amount of the policy to the beneficiary of the policy upon the death of the insured. Life insurance may also be purchased by a single premium or by letting dividends accumulate.

### 1-066. Limited Service Status

Limited service status means that the beneficiary's use of the CMSP is limited because of improper utilization of service.

### 1-067. Long-Term Care

Long-Term Care (LTC) means inpatient medical care which lasts for more than the month of admission and is expected to last for at least one full calendar month after the month of admission.

### 1-068. Marriage

Marriage means the state of being married, including a legal common law marriage, as defined in Section 4100 et seq., Chapter 2, Division 4, Part 5, Title 1, California Civil Code.

### 1-069. Medi-Cal

Medi-Cal means California's Medicaid (medical assistance) Program and the benefits available under that program.

### 1-070. Medi-Cal Family Budget Unit

Medi-Cal Family Budget Unit (MFBU) means the persons who will be included in the Medi-Cal eligibility and share of cost determination.

### 1-071. Medically Needy Person or Family

Medically Needy (MN) person or family means a person or family eligible under the Medi-Cal MN program.

### 1-072. Mini-Budget Unit

Mini-Budget Unit (MBU) means family sub-units derived from the initial MFBU composition and used to determine eligibility or share of cost when Sneed/Gamma regulations apply to the MFBU.

### 1-073. Multiple Dwelling Unit

Multiple dwelling unit means any dwelling with more than one separate living unit, that is, a unit which normally would include, as a minimum, a bathroom and a kitchen.

### 1-074. Nonrecurring Lump Sum Payment

Nonrecurring lump sum payment means a payment received by a member of the CFBU one time only, or infrequently. Examples of nonrecurring lump sum payments include lottery winnings, insurance settlements, court orders, inheritances, etc.

### 1-075. Obligate

Obligate means to incur a cost for health care services.

### 1-076. Other Public Assistance Recipient

Other Public Assistance (Other PA) recipient means a person eligible for Medi-Cal under one of the categories in the Other PA programs, such as SSI/SSP or CalWORKs.

### 1-077. Overpayment

Overpayment means the receipt of CMSP benefits when there is no entitlement to all or a portion of the benefits received.

### 1-078. Parent

Parent means the natural or adoptive parent of a child.

### 1-079. Patient

Patient means a person receiving individual professional services directed by a licensed practitioner of the healing arts towards maintenance, improvement, or protection of health or the alleviation of disability or pain.

### 1-080. Persons Living In The Home

Persons living in the home means all of the following:

- (A) Persons physically present in the home;
- (B) Persons temporarily absent from the home because of hospitalization, visiting, vacation, trips in connection with work or because of similar reasons.
  - (1) A temporary absence is normally one in which the person leaves and returns to the home in the same or following month.
  - (2) A child temporarily absent from the home shall be considered to be living in the home as long as the parent continues to have responsibility for the care and control of the child. If a child is absent from the home, but claimed as a tax dependent by the parent(s), the child shall be considered to be living in the home.
- (C) Persons away at school or vocational training who will resume living in the home as evidenced by the person returning home for vacations, weekends, and at other times.

### 1-081. Principal Residence

Principal residence means the property in which the applicant or beneficiary has an ownership interest and which the applicant or beneficiary uses as his/her home.

### 1-082. Property--Community

Community property means property acquired by either spouse during marriage, unless the property was acquired as separate property or with funds that can be identified as separate property.

### 1-083. Property--Personal

Personal property means possessions or interest, exclusive of real property, that may be easily transported or stored; including but not limited to cash on hand, bank accounts, notes, mortgages, deeds of trust, cash surrender value of life insurance, motor vehicles, uncollected judgements, an interest in a firm in receivership, a lawsuit, patents, copyrights, household goods, and musical instruments.

### 1-084. Property--Real

Real property means land and improvements which generally include any stationary property attached to the land and any oil, mineral, timber or other rights related to the land.

### 1-085. Property--Separate

Separate property means any item that is considered separate property under California Property Law. Generally, separate property is property acquired by an individual by any method prior to marriage, after obtaining an interlocutory or final judgement of dissolution, or while voluntarily separated; or at any time by gift or inheritance, or purchases made with funds that are separate property, and can be identified as separate property, or with funds from the sale of separate property.

### 1-086. Property--Share of Community

For the purposes of determining CMSP eligibility, share of community property is to be treated as if each spouse owns one-half of the community property.

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### **1-087. Public Agency**

Public agency means an administrative division of local, state, or federal government, or an organization that has a contract to act in behalf of the local, state, or federal government.

### **1-088. Public Assistance Recipient**

Public Assistance (PA) recipient means a person or family receiving assistance under CalWORKs, Foster Care, SSI/SSP, IHSS, RCA, ECA, or GR/GA.

### **1-089. Public Funds**

Public funds means monies provided by local, state, or federal government.

### **1-090. Quality Control**

Quality control means the review of CMSP cases to ensure proper determination of eligibility.

### **1-091. Reapplication**

Reapplication means an application for CMSP eligibility made in the same county as a previous application, if the previous application was denied or withdrawn, or CMSP eligibility based on the previous application has been discontinued for more than 12 months.

### **1-092. Recipient**

Recipient means a person or family receiving aid under a PA program, Other PA, Medi-Cal or CMSP.

### **1-093. Redetermination**

Redetermination means the review of the eligibility of a person or family for CMSP benefits.

### 1-094. Relative

Relative means a mother, father, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, half-brother, half-sister, or any such person of a preceding or succeeding generation denoted by a prefix of grand, great or great-great.

### 1-095. Repayment

Repayment means the liquidation of an overpayment in response to issuance of demands and recovery thereof by the county department.

### 1-096. Residence

Residence means the place in which a person or family lives or is physically present if the person or family has no present intention of leaving.

### 1-097. Responsible Relative

Responsible relative means a family member who is responsible to contribute to the cost of health care services received by a CMSP beneficiary.

### 1-098. Restoration

Restoration means the approval of CMSP eligibility for a person or family in the same county as that in which they were previously eligible for CMSP, if the effective date of the approval occurs within 12 months of the end of the previous period of eligibility.

### 1-099. Restricted CMSP Benefits

"Restricted CMSP benefits" means program-covered services to treat an emergency medical condition. Restricted CMSP benefits are provided to aliens otherwise eligible but lacking documentation of satisfactory immigration status or citizenship.

### 1-100. Satisfactory Immigration Status

For purposes of the CMSP, satisfactory immigration status means lawful admission for permanent residence in the United States, or status as an alien permanently residing in the United States under color of law.

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### 1-101. Share of Cost

Share of cost means the amount of net income in excess of the CMSP maintenance need which must be paid, or obligated to be paid, toward the cost of the health care received, before the CMSP will pay for covered services.

### 1-102. Share of Encumbrances

Share of encumbrances means that portion of the encumbrances attributed to each portion of jointly owned property.

### 1-103. Spenddown

Spenddown means the process of reducing or converting excess property assets in order to become eligible for CMSP.

### 1-104. Supplemental Security Income/State Supplemental Program

Supplemental Security Income/State Supplemental Program (SSI/SSP) means the federal and state payments, respectively, which are based on need, and are paid to aged, blind or disabled persons.

### 1-105. Temporary Assistance for Needy Families

Temporary Assistance for Needy Families (TANF) is the program created from implementation of Public Law 104-193 (The Personal Responsibility and Work Opportunity Reconciliation Act of 1996) which replaced the AFDC, JOBS, and GAIN programs.

### 1-106. Transfer of Property

Transfer of property means a change in ownership whereby a person no longer holds title to, or beneficial interest in, property.

### 1-107. Verification

Verification means the process of obtaining acceptable evidence which substantiates statements made by an applicant/beneficiary.

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### **Article 2. County of Responsibility for Determination of CMSP Eligibility**

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### **Article 2. County of Responsibility for Determination of CMSP Eligibility**

#### **2-010. County of Responsibility**

The county of responsibility shall be the county whose department is responsible for the determination of the initial and continuing CMSP eligibility for a person or family. The appropriate county of responsibility shall be determined in accordance with this article.

#### **2-011. County of Responsibility--Persons With a Family**

The county of responsibility for determining CMSP eligibility for persons whose eligibility for CMSP is determined as part of a family, shall be either of the following:

- (A) The county in which the family's residence is located.
- (B) The county of physical presence if the family's residence is unclear.

#### **2-012. County of Responsibility--Persons With No Family**

The county of responsibility for determining CMSP eligibility for persons whose eligibility for CMSP is not determined as part of a family shall be:

- (A) The county in which the persons home is located, if the home is situated on real property owned by the applicant/beneficiary and is exempt as a principal residence; or,
- (B) The county of physical presence in all other situations.

#### **2-013. County of Responsibility--Persons With a Guardian**

The county of responsibility for persons with a guardian shall be determined as follows:

- (A) For persons with a county public guardian--the county in which the public guardian is located.
- (B) For persons with a private guardian or a guardian appointed by the State, county responsibility shall be established as if there were no guardian in accordance with Sections 2-011 and 2-012, provided that the person under guardianship is a resident of a CMSP county.

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### 2-014. County of Responsibility--Deceased Persons

The county of responsibility for determining CMSP eligibility for deceased persons shall be the county which would have been the county of responsibility at the time of the person's death.

### 2-015. Application Made in Contract Counties Other Than Contract County of Responsibility

The county in which a person makes an application for CMSP shall forward a courtesy application and a Statement of Facts from the applicant to the county of responsibility determined by Sections 2-011 and 2-012.

### 2-016. Intercounty Transfers

When a CMSP eligible person or family moves out of the initial county of responsibility they must be advised to reapply in the new county of residence. No intercounty transfer is to be initiated between the two counties.

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### **Article 3. Application Process**

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## **CMSP ELIGIBILITY MANUAL**

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### **Article 3. Application Process**

#### **3-010. County Medical Services Program (CMSP)**

For purposes of this section, persons are considered 21 years of age on the first day of the month following the month in which they reach age 21. Persons are considered 65 years of age on the first day of the month in which they reach age 65. A person's eligibility under CMSP shall be determined if that person:

- (A) Is at least 21 years of age but less than 65 years and any of the following:
  - (1) A person who cannot meet the linkage factors necessary to be eligible for the Medi-Cal program.
  - (2) Not yet determined eligible for Medi-Cal as a PA or Other PA recipient or as an MN person because of a pending application based on allegations of blindness or disability.
- (B) Meets the other eligibility requirements specified in this manual.

#### **3-011. Application Process--General**

The county department shall receive and act upon all applications, reapplications, requests for restoration and redeterminations without delay and in accordance with the provisions of this article.

#### **3-012. Evaluation of Medi-Cal Linkage**

The county department shall evaluate potential Medi-Cal linkage by completing a CMSP Medi-Cal Evaluation linkage form, CMSP 1153, on each applicant.

#### **3-013. Persons Who May File an Application for CMSP**

Any person who wishes to receive CMSP may file an application. If the applicant, for any reason, is unable to apply on his/her own behalf, or is deceased, any of the following may complete and file the application for the applicant:

- (A) The applicant's spouse, guardian, conservator or executor.
- (B) A person who knows of the applicant's need to apply.
- (C) A public agency representative.

## CMSP ELIGIBILITY MANUAL

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The case record must clearly specify why anyone other than a spouse has applied for the applicant.

### 3-014. Application for CMSP

A person or family applying for CMSP shall submit a completed application form to the county department.

### 3-015. Application for Retroactive CMSP

Effective January 1, 2003, no retroactive eligibility shall be granted for CMSP cases. The beginning date of eligibility will be in accordance with Section 11-010.

### 3-016. CMSP Application for Medi-Cal LTC Aid Code 53, Acute Care

A person eligible for Medi-Cal under aid code 53, which only covers Skilled Nursing Facility or Intermediate Care Facility (SNF or ICF) services, may also receive full-scope CMSP benefits under aid code 8F to cover any acute care services. There is no LTC length of stay requirement to receive a 53 aid code. If the person has a SOC under aid code 53 he/she will have the same SOC under aid code 8F. The applicant must complete and sign the following forms:

- (A) CMSP 219.
- (B) MC 13 (or MC 210, SAWS 2 or other appropriate Medi-Cal form declaring citizenship/immigration status).

## **CMSP ELIGIBILITY MANUAL**

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### **3-017. CMSP Application for County General Assistance/General Relief (GA/GR) Recipients**

The county may follow an abbreviated CMSP eligibility process for recipients of county GA/GR payments who request medical assistance. GA/GR eligibility shall serve as verification of CMSP eligibility until GA/GR eligibility is terminated. Such applicants must sign and complete the following forms:

- (A) MC 13 (or MC 210, SAWS 2 or other appropriate Medi-Cal form declaring citizenship/immigration status).
- (B) CMSP 219.
- (C) CMSP 1153.

### **3-018. Date of Application**

The date of application for CMSP shall be the date the application or a SAWS 1 is received by the county department.

### **3-019. Withdrawal of Application--Request for Discontinuance**

An applicant or beneficiary may withdraw or request discontinuance at any time. The county shall note such request in the case file. If a written request is not submitted by the applicant or beneficiary, the county shall issue a Notice of Action (NOA) which indicates that the action is being taken to withdraw the application or discontinue benefits and that the applicant/beneficiary must contact the county to indicate if they desire that the application process or eligibility continue.

### **3-020. Face-To-Face Interview**

A face-to-face interview with the applicant, or the person completing the Statement of Facts, is optional at the time of application, reapplication, restoration, or re-determination. However, the eligibility staff may require the applicant to complete a face-to-face interview before benefits are established when eligibility staff determine any of the following conditions exist:

## CMSP ELIGIBILITY MANUAL

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- (A) Information provided on the application form or verifying information provided is questionable;
- (B) The individual has no visible means of support, such as in-kind income, or means of support is not reported for the individual;
- (C) Income and expenses of a self-employed individual do not match reported income, and the questionable information cannot be resolved with follow-up telephone contact and/or mail.

If needed, the interview:

- (A) Shall be completed within 30 days of the date of the application or reapplication.
- (B) Shall not be required for persons who have a government representative, such as a public guardian, acting on their behalf.
- (C) Shall be conducted by a representative of the county department unless, for good reason, a direct interview between the county department and the applicant/beneficiary or the person completing the Statement of Facts is not possible. In such a situation, the interview may be conducted by another public agency acting on behalf of the county department.
- (D) Shall include the completion and explanation of the contents of the beneficiary rights and responsibilities form, CMSP 219. The representative of the agency conducting the interview is responsible for meeting this requirement.

### 3-021 Statement of Facts

Following completion and submission of the application form, a Statement of Facts (MC210/SAWS2) or other approved form shall be completed, signed, and filed with the county department. The Statement of Facts shall be used by the county department in the determination of the applicant's eligibility, share of cost, and other health coverage.

### 3-022. Persons Who May Complete and Sign the Statement of Facts

The applicant or spouse of the applicant shall complete and sign the Statement of Facts, unless:

- (A) The applicant has a conservator, guardian, or executor. In this case, the conservator, guardian or executor shall complete and sign the Statement of Facts.
- (B) The applicant is incompetent, in a comatose condition or suffering from amnesia, and there is no spouse, conservator, guardian or executor. In this case:
  - (1) The county department shall evaluate the applicant's circumstances and determine whether or not there is a need for protective services.
    - (a) If the county department determines that there is a need for protective services, it shall make a referral to the public guardian or Adult Protective Services (APS) Division. The public guardian or APS social worker may complete and sign the Statement of Facts.
    - (b) If the county department determines that there is no need for a referral to the public guardian or APS division, or if the public guardian or APS division is unable or refuses to complete the eligibility process, then the Statement of Facts may be completed and signed, in accordance with Section 3-024, by a family representative or a representative of a public agency or the county department.
  - (2) The person completing the Statement of Facts on behalf of the applicant shall provide all available information required on the Statement of Facts regarding the applicant's circumstances.
  - (3) If a county department representative completes and signs the Statement of Facts, another representative of that county department shall:

## CMSP ELIGIBILITY MANUAL

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- (a) Confirm, by personal contact, the applicant's inability to act on his own behalf.
  - (b) Countersign and approve any recommendation for eligibility.
- (C) The applicant dies or cannot be located before completing the Statement of Facts. In this case, the county department shall obtain as much information as possible regarding the applicant's circumstances. In such cases, a relative, friend, or a representative of a public agency or the county department may complete the Statement of Facts on behalf of the applicant in accordance with (B)(1)(b), and (B)(3)(b).

### 3-023. Filing the Statement of Facts

The county department shall:

- (A) Set a reasonable deadline for returning the Statement of Facts to the county department and inform the applicant of the deadline at the time the Statement of Facts is given or mailed to the applicant.
- (B) Attempt to contact the applicant or beneficiary to determine the reason for delay if the Statement of Facts is not returned by the deadline specified in (A).
- (C) Extend the deadline for returning the Statement of Facts if a valid reason for the delay, such as incapacity, is found.
- (D) Deny the application or discontinue eligibility if a valid reason for the delay, such as incapacity, is not found.
- (E) Provide a copy of the completed Statement of Facts to the individual who signed it, at their request.

### 3-024. Obtaining Information for the Completion of the Statement of Facts

The county department or the representative of a public agency completing the Statement of Facts in accordance with Section 3-022 (B) shall:

## CMSP ELIGIBILITY MANUAL

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- (A) Perform a diligent search to obtain available information regarding the applicant's circumstances applicable to a CMSP eligibility determination.
- (B) Complete the Statement of Facts based upon the findings of the diligent search.
- (C) Initiate a Medi-Cal application in those cases where a disability is expected to last for more than 12 months. If the applicant is competent and refuses to apply for Medi-Cal based on a disability and to complete a DED application to determine disability, the county shall deny the application, after the county has explained the additional benefits to the individual, for non-cooperation.

### 3-025. Verification--Prior to Approval

The county department shall obtain verification of the following information contained on the Statement of Facts prior to approval of eligibility:

- (C) Identity as specified in Section 3-025.1.
- (C) Income.
- (C) Savings and checking account balances.
- (D) The value of stocks, bonds, and mutual funds.
- (E) Trust deeds.
- (F) Other real property.
- (G) All CMSP income deductions such as child care costs, health insurance premiums, alimony, etc.
- (H) Non-exempt motor vehicles, including boats, campers or trailers.
- (I) Cash value of non-exempt life and burial insurance policies and trusts.
- (J) Any other item which the county determines to be necessary to establish eligibility.

### 3-025.1 Verification of Identity

Identity of all persons in the CFBU shall be verified by viewing a California Driver's License or Identification Card issued by the Department of Motor Vehicles, or any other document which appears to be valid. If the identification of one spouse is verified, the other spouse is not required to provide additional verification.

### 3-026. Clarification of Statement of Facts

When necessary, the county department shall clarify information on the Statement of Facts. If additional clarification is needed:

- (A) The county department shall inform the person who signed the Statement of Facts of the information needed and the reason for the request. The applicant or person who signed the Statement of Facts shall be responsible for securing the additional information.
- (B) If the applicant or person who signed the Statement of Facts has difficulty in securing the necessary information, the county department shall, with the person's written consent, obtain the information. The applicant's/beneficiary's Authorization for Release of Information shall identify persons to be contacted and the specific information to be requested.

### 3-027. Verification by Signature

If the county determines that verification by signature is the only viable method available for any item on the Statement of Facts, the county shall state that fact in the county use section on the Statement of Facts. The signature on the Statement of Facts shall not be accepted as verification of a person's application for an SSN.

The signature on the Statement of Facts shall be accepted as verification of the facts if both of the following conditions are met:

- (A) The information required for establishing eligibility under these regulations is not available.

## CMSP ELIGIBILITY MANUAL

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- (B) The county department determines that the information provided on the Statement of Facts is sufficient to determine eligibility. If the information on the Statement of Facts is insufficient, the county department shall accept a signed statement, from the person completing the Statement of Facts, providing the necessary supplement information.

### 3-028. Eligibility Determination

After the applicant has applied for CMSP, completed the Statement of Facts and provided all essential information and verifications, the county department shall determine the person's or family's eligibility and share of cost. A determination based on the results of a county search for information under Section 3-024 shall be completed in the same manner as any other determination with only the income and resources discovered through the search considered available.

### 3-029. Denial or Discontinuance Due to Lack of Information, Noncooperation or Loss of Contact

The application shall be denied or eligibility discontinued under any one of the following circumstances:

- (A) There is insufficient information available to make an eligibility determination, after the county department has made a reasonable effort to obtain the necessary information.
- (B) The applicant or person completing the Statement of Facts fails, without good cause, to provide necessary verification or to cooperate with the county department in resolving incomplete, inconsistent or unclear information on the Statement of Facts.
- (C) The beneficiary fails, without good cause, to return a status report required under Section 3-039.
- (D) The applicant or beneficiary fails, without good cause, to participate in the face-to-face interview in accordance with Section 3-020.
- (E) The county department, after reasonable attempts to contact the applicant or beneficiary, determines that there is loss of contact.

## CMSP ELIGIBILITY MANUAL

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### 3-030. Reversal of a Denial or Discontinuance Due to Lack of Information, Noncooperation, or Loss of Contact

A person or family whose eligibility is denied or discontinued for any of the reasons specified in 3-029 may:

- (A) Reapply at any time, including the month of application.
- (B) Have the denial or discontinuance rescinded by providing evidence that the person or family had good cause for not meeting the conditions specified by the county department. For purposes of this section good cause includes, but is not limited to:
  - (1) Failure of the county to provide the beneficiary with the required status report form or with the information that failure to complete and return the form may result in discontinuance.
  - (2) Failure of the postal system to deliver the required status report in a timely manner.
  - (3) Physical or mental illness or incapacity of the beneficiary or the authorized representative which precludes their completion or return of the completed status report form in a timely manner, or which precludes their participation in the face-to-face interview.
  - (4) A level of literacy of the beneficiary or the authorized representative which, in conjunction with other social or language barriers, precludes the beneficiary or the authorized representative from completing the status report.
  - (5) Failure of the county department to properly process the submitted Statement of Facts or status report form.
  - (6) Unavailability of transportation to the county department for the face-to-face interview.

### 3-031. Discontinuance Due to Death

Eligibility shall be discontinued at the end of the month in which a person dies.

## CMSP ELIGIBILITY MANUAL

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### 3-032. Promptness Requirement

The county department shall complete the determination of eligibility and share of cost as quickly as possible but not later than 45 days following the date of application, reapplication or request for restoration is filed.

- (A) The 45-day period may be extended for any of the following reasons:
  - (1) The applicant, for good cause, has been unable to return the completed Statement of Facts or necessary verification in time for the county department to meet the promptness requirement.
  - (2) There has been a delay in the receipt of reports and information necessary to determine eligibility and the delay is beyond the control of either the applicant or the county department.
  - (3) The applicant's guardian, or other person acting in the applicant's behalf, has failed to provide essential information requested by the county department. When this situation occurs the eligibility determination period shall not exceed three months from the date of application.
- (B) The determination of eligibility shall be considered complete on the date the Notice of Action is mailed to the applicant.

### 3-033. Notice of Action--CMSP Determinations

County departments shall notify beneficiaries in writing of their CMSP eligibility or ineligibility, and any changes made in their eligibility status or share of cost.

- (A) The Notice of Action shall include the following:
  - (1) The approval, denial, or discontinuance of eligibility or the change in the share of cost and the effective date of the action.
  - (2) The amount of the share of cost, if any, and the amount of the net nonexempt income used to determine the share of cost.

## CMSP ELIGIBILITY MANUAL

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- (3) The reason an action is being taken.
  - (4) A statement, when appropriate, regarding the information or action necessary to reestablish eligibility or determine a correct share of cost.
- (B) The Notice of Action shall be mailed as follows:
  - (1) Adverse actions, at least ten calendar days prior to the first of the month in which the action becomes effective.
  - (2) Discontinuances or changes in the share of cost which are not adverse actions, in sufficient time to reach the beneficiary by the effective date of the action.
  - (3) All other instances, no later than the date the county department takes the action.
- (C) Conditional notices, which advise applicants or beneficiaries that eligibility will be denied or discontinued unless specified actions are taken by the applicants or beneficiaries, shall not be considered to have met the Notice of Action requirements of this Section.

### 3-034. Corrective Action on Denied Applications

A denial of an application shall be rescinded when the county department determines that the denial was in error. CMSP eligibility that results from corrective action taken on a denied application shall be approved based on the date of the CMSP application that was denied.

### 3-035. Applicant and Beneficiary General Responsibility

The county shall assist the applicant or beneficiary as necessary in meeting the requirements of this Section.

- (A) Applicants and beneficiaries, persons acting on behalf of such applicants and beneficiaries, or persons who have completed and signed the Statement of Facts, shall:

## CMSP ELIGIBILITY MANUAL

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- (1) Complete and participate in the completion of all documents required in the application or redetermination process.
- (2) Make available to the county department all documents needed to determine eligibility and share of cost, as specified in Sections 3-025 through 3-027.
- (3) Report all facts that are pertinent to the determination of eligibility and share of cost.
- (4) Report any changes in the facts pertinent to the determination of eligibility and share of cost within ten calendar days following the date the change has occurred.
- (5) Cooperate fully in any investigation that may be required for quality control.
- (6) Report and utilize other health care coverage available to the individual or family group in accordance with Section 13-011.
- (7) Complete CMSP status reports in accordance with Section 3-039.

### 3-036. Unconditionally Available Income

An applicant or beneficiary shall, as a condition of CMSP eligibility, take all actions necessary to obtain unconditionally available income except as limited in (C) below. This includes applying for such income and cooperating in supplying the information requested by the agency making the award determination.

- (A) Income shall be considered unconditionally available if the applicant or beneficiary has only to claim or accept the income. Such income includes, but is not limited to:
  - (1) Disability insurance benefits.
  - (2) Benefits available to veterans of military service.
  - (3) OASDI benefits.

## CMSP ELIGIBILITY MANUAL

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- (4) Unemployment insurance benefits.
- (B) Only the person who refuses to apply for and accept unconditionally available income shall be rendered ineligible by such refusal.
- (C) After the amount of unconditionally available income is determined, an applicant or beneficiary may refuse, for good cause, to apply for or accept such income. For the purposes of this Section, good cause is limited to:
  - (1) Cases in which such refusal would not result in a share of cost; or
  - (2) Cases in which such refusal would not increase a share of cost already determined.
- (D) For cases detailed in (C), the county shall require verification from the agency making the award determination. The verification shall be maintained in the case file. The good cause refusal shall be re-evaluated at redetermination and at other times as necessary.

### 3-037. Social Security Numbers

Each applicant or beneficiary shall, as a condition of eligibility for full scope CMSP benefits, obtain and provide the county department an SSN.

- (A) The SSN shall be provided to the county department at the time of application unless the applicant must apply for the number. If application for an SSN must be made, the SSN will be provided to the county department by the Department or by the Social Security Administration (SSA).
- (B) CMSP shall not be denied, delayed, or discontinued for an applicant or beneficiary because of these requirements unless the applicant or beneficiary refuses to apply for or provide an SSN.
  - (1) Eligibility of an applicant or beneficiary who refuses to apply for or provide an SSN shall be denied or discontinued.
  - (2) Persons ineligible for CMSP in accordance with (1) shall be an ineligible member of the CFBU in accordance with Section 6-013.

## CMSP ELIGIBILITY MANUAL

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- (C) The county department shall assist the applicant or beneficiary by explaining how to apply for an SSN and by providing an SSA Referral Notice, Form MC 194.
- (D) The county shall notify the beneficiary if the information provided by that beneficiary does not result in verification of the SSN by an SSA. CMSP eligibility shall be discontinued if the beneficiary fails, without good cause, to respond to the notice within 60 days.

### 3-038. Redetermination--Frequency and Process

Persons or families determined eligible for CMSP shall have their eligibility redetermined at least once every 12 months.

- (A) At the time of the redetermination, the beneficiary shall complete a new Statement of Facts.
- (B) The county department shall:
  - (1) Complete the redetermination within 12 months of the most recent of the following:
    - (a) Approval of eligibility on any application, reapplication or restoration which required a Statement of Facts.
    - (b) Last redetermination.
  - (2) Verify information on the Statement of Facts as necessary.
  - (3) Verify if a DED application had been previously submitted on the beneficiary and resubmit the application if the beneficiary still has a disability.
  - (4) Send a Notice of Action if there is a change in the beneficiary's eligibility status or share of cost.
  - (5) If there are persons under 21 years of age in the family, provide an informational pamphlet on the CHDP which describes the CHDP benefits available and information regarding how and where the benefits are provided in the county.
- (C) A face-to-face interview is optional at the time of redetermination for all CFBUs.

### 3-039. Status Reports

The county department shall require the completion of a Status Report at monthly or quarterly intervals. Individuals receiving Medi-Cal aid code 53 (LTC) and companion CMSP Code 8F are exempt from status reports as long as they maintain LTC status.

### 3-040. Case Records and Confidentiality

The county department shall retain case records and insure confidentiality.

- (A) The county department shall adhere to the requirements in Division 19 and 23, Manual of Policies and Procedures, Department of Social Services, governing:
  - 1) Maintenance of case records.
  - (2) Confidentiality of case records.
  - (3) Safeguarding federal tax information.
  - (4) Access to case records.
- (B) The board of supervisors of a county may authorize the destruction of:
  - (1) Narrative portions of a case record which are over three years old in any case file, active or inactive, after an audit by the county department.
  - (2) Case files which have remained inactive for a period of three years providing the Department has not notified the county department that unresolved issues or pending civil or criminal actions exist.
  - (3) Fiscal records which are over three years old from the date that the county department has submitted the last CMSP expenditure report to the Department.
  - (4) Budget records that are over three and one-half years old from the date of the last budget month document.

## **CMSP ELIGIBILITY MANUAL**

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### **Article 4. Institutional Status**

- 4-010. Institutional Status--General
- 4-011. Ineligible Due to Institutional Status

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### Article 4. Institutional Status

#### 4-010. Institutional Status--General

The status of inmates in public or private institutions shall be a factor in the determination of their CMSP eligibility as specified in Section 4-011. The eligibility of inmates whose institutional status does not cause ineligibility under Section 4-011 shall be contingent upon all other eligibility requirements being met.

#### 4-011. Ineligible Due to Institutional Status

Ineligibility for persons classified as inmates in (A) begins on the day institutional status commences and ends on the day institutional status ends.

- (A) Inmates in public or private institutions shall be ineligible for CMSP due to institutional status if they are any of the following:
  - (1) Detained under the penal system.
  - (2) Detained under Section 602 (wards of the juvenile court), Welfare and Institutions Code.
  - (3) Inmates in an institution for the treatment of tuberculosis.
  - (4) Inmates in an institution for mental diseases.
  - (5) Inmates of a public institution which is not a medical facility.
- (B) Institutional status of persons detained under the penal system including Section 602 of the Welfare and Institutions Code shall be considered to be terminated only when the inmates are released from the public institution on permanent release, bail, probation or parole. Institutional status of such persons shall not be affected by an outpatient visit to a physician or other medical practitioner outside the public institution or transfer to a public or private medical facility.

## CMSP ELIGIBILITY MANUAL

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- (C) Institutional status for persons in non-penal facilities shall be considered to be terminated when either of the following situations exist:
  - (1) Persons are released from an institution for mental diseases or tuberculosis or transferred from such an institution to a public or private medical facility. Institutional status of such persons shall not be affected by an outpatient visit to a physician or other medical practitioner outside the institution.
  - (2) Persons are on conditional release or convalescent leave from an institution for mental diseases.

## **CMSP ELIGIBILITY MANUAL**

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### **Article 5. Alienage, Citizenship, and Residency**

- 5-010. Citizenship or Immigration Status for Full CMSP Benefits
- 5-011. Documentation of Status as a Citizen or National of the United States
- 5-012. Documentation of Status as an Alien Lawfully Admitted for Permanent Residence
- 5-013. Documentation of Status as an Alien Permanently Residing in the United States Under Color of Law (PRUCOL)
- 5-014. Opportunity to Submit Documents
- 5-015. Verification of Satisfactory Immigration Status
- 5-016. Restricted CMSP Benefits for Certain Aliens
- 5-017. Written Declaration of Status as a Citizen or National of the United States, or an Alien
- 5-018. Residence--General
- 5-019. Temporary Absence From the County
- 5-020. Absence From the County for More Than 60 Days
- 5-021. Death During Absence From the County

## CMSP ELIGIBILITY MANUAL

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### **Article 5. Alienage, Citizenship, and Residency**

#### 5-010. Citizenship or Immigration Status for Full CMSP Benefits

To be eligible for full CMSP benefits, an applicant or beneficiary shall be a California resident who is one of the following:

- (A) A citizen of the United States.
- (B) A national of the United States from American Samoa or Swain's Island.
- (C) A lawfully present alien, including, but not limited to, legal immigrants, refugees, and permanent alien residents.

#### 5-011. Documentation of Status as a Citizen or National of the United States

An applicant's status as a citizen or national of the United States must be documented.

- (A) Original documents which serve as evidence that an applicant is a citizen or national of the United States must be presented if:
  - (1) The applicant declares a birthplace outside of the United States or its outlying possessions; or
  - (2) Evidence exists which suggests that the applicant may be falsely claiming to be a citizen or national of the United States.
- (B) Documents which verify an individual's status as a citizen or national of the United States include the following:
  - (1) A birth certificate issued by a governmental entity within the United States or its outlying possessions.
  - (2) A United States passport.
  - (3) United States Citizen Identification Card (INS Form I-179 or I-197).
  - (4) Certification of Naturalization (INS Form N-550 or N-570).
  - (5) Certification of Citizenship (INS Form N-560 or N-561).

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- (6) Certification of Birth Abroad (Department of State Form FS-545 or DS-1350).
- (7) Report of Birth: Child Born Abroad of American Parent or Parents (Department of State Form FS-240).
- (8) Northern Mariana Identification Card issued by INS to persons born in the Northern Mariana Islands. These persons acquired United States citizenship through Public Law 94-241.
- (9) A religious document recorded within three months of birth, showing that the birth took place in the U.S. Religious documents shall be accepted only in the absence of other types of evidence listed above.
- (10) Any other document from INS which verifies that the individual is legally present in the United States. Such documents include, but are not limited to, an Individual Fee Registration Receipt (INS Form G-711) which shows that the individual has filed an application for a replacement INS document which was lost or stolen.

### 5-012. Documentation of Status as an Alien Lawfully Admitted for Permanent Residence

Applicants in this classification shall present a document which establishes their identity and one or more, but not limited to, the following documents:

- (A) A Resident Alien Receipt Card (INS Form I-551) (also known as an Alien Registration Receipt Card), or INS Form I-151.
- (B) Record of Arrival and Departure (INS Form I-94) or foreign passport with a special stamp of admission which shows the date of arrival, class of admission and date on which the alien is to depart. In addition, the form should have a stamp indicating that an I-551 will be issued.
- (C) An INS Form I-181b notification letter which is issued in connection with a Memorandum of Creation of Record of Lawful Permanent Residence (I-181) which shows that an Alien Registration Receipt Card (INS Form I-551). The I-181b should indicate that an I-551 will be issued.
- (D) INS Form I-1327: Permit to Re-enter the United States.

## CMSP ELIGIBILITY MANUAL

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- (E) A letter from the Canadian Department of Indian Affairs, a birth or baptismal record issued on a Canadian Indian reservation, or tribal or school records which establish that an Native American born in Canada is of at least one-half American Indian ancestry.
- (F) An Individual Fee Register Receipt (INS Form G-711) for replacement of a lost, stolen, or unreadable alien registration or alien admission document listed in this section.

### 5-013. Documentation of Status as an Alien Permanently Residing in the United States Under Color of Law (PRUCOL)

Applicants in this classification shall present a document which establishes their identity and one or more of the following INS issued documents:

- (A) Aliens admitted to the United States before April 1, 1980, in accordance with Immigration and Nationality Act (INA) Section 203 (a) (7) {8 USC 1153 (a) (7)}: Arrival-Departure Record, INS Form I-94, annotated "REFUGEE-CONDITIONAL ENTRY."
- (B) Aliens paroled into the United States for an indefinite period including Cuban/Haitian Entrants and Public Interest/Humanitarian Parolees: INS Form I-94, with notation that the alien has been paroled into the United States pursuant to INA Section 212 (d) (5) {8 USC 1182 (d) (5)}.
- (C) Aliens subject to an Order of Supervision: INS Form I-220B.
- (D) Aliens granted an indefinite stay of deportation: INS Form I-94 or a letter from INS showing this status.
- (E) Aliens granted an indefinite voluntary departure: INS Form I-94 or a letter from INS showing this status.
- (F) Aliens on whose behalf an INS Form I-130 (Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa) has been filed, with their families covered by the petition, who are entitled to voluntary departure but whose departure INS does not contemplate enforcing: INS Form I-94 showing this status or Alien Voluntary Departure Notice, INS Form I-210.

## CMSP ELIGIBILITY MANUAL

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- (G) Aliens who have filed applications for adjustment to be lawfully admitted for permanent residence status that INS has accepted as "properly filed." An INS Form I-181 Memorandum of Creation of Record of Lawful Permanent Residence, and INS Form I-94 stamped I&NA Section 245 Applicant, or a properly endorsed U.S. passport.
- (H) Aliens granted a stay of deportation for a specific period by court order, statute or regulation, or by individual determination of INS in accordance with INA Section 106 (8 USC 1105a) or relevant INS Operating Instruction and whose departure INS does not contemplate enforcing: INS Form I-94, a letter from INS, or an order issued by a District Director of INS, the Executive Office of Immigration Review, or a federal court.
- (I) Aliens granted asylum in accordance with INA Section 208 (8 USC 1158): INS Form I-94, and a letter from INS showing this status.
- (J) Aliens admitted as refugees since April 1, 1980: Arrival-Departure Record, INS Form I-94, annotated: "ADMITTED AS A REFUGEE PURSUANT TO SECTION 207 OF THE IMMIGRATION AND NATIONALITY ACT," or an unexpired Refugee Travel Document, INS Form I-571.
- (K) Aliens granted voluntary departure, whose departure INS does not contemplate enforcing: INS Form I-94, showing this status, or Alien Voluntary Departure Notice, INS Form I-210, bearing a departure date.
- (L) Aliens in deferred action status pursuant to INS operating instructions: Alien Voluntary Departure Notice, INS Form I-210, or a letter from INS showing this status.
- (M) Aliens who have applied for an adjustment of status from undocumented alien to alien lawfully admitted for permanent residence in accordance with INA Section 249 (8 USC 1259) on the basis of having entered and continuously resided in the United States since before January 1, 1972: Individual Fee Register Receipt, INS Form G-711, and an Interview Appointment Letter, INS Form I-468.

## CMSP ELIGIBILITY MANUAL

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- (N) Aliens who have been granted suspension of deportation in accordance with INA Section 244 (8 USC 1254) whose departure INS does not contemplate enforcing: Arrival-Departure Record, INS Form I-94, and an order issued by the Executive Office of Immigration Review.
- (O) Aliens whose deportation is being withheld in accordance with INA Section 243 (h) {8 USC 1253 (h)}: Arrival-Departure Record, INS Form I-94, and an order issued by the Executive Office of Immigration Review.
- (P) Citizens of the Republic of the Marshall Islands or the Federated States of Micronesia who, in accordance with 48 USC Sections 1681 through 1695, may live, work, or study in the United States without restrictions: Arrival-Departure Record, INS Form I-94, annotated "CFA/MIS" or "CFA/FSM".
- (Q) Aliens granted extended voluntary departure for a specified time due to conditions in their home countries: Arrival-Departure Record, INS Form I-94, showing this status or Alien Voluntary Departure Notice, INS Form I-210.
- (R) Aliens whose INS documents have been lost or stolen or are unreadable: An Individual Fee Register Receipt (INS Form G-711) which shows the person has applied for replacement of a lost, stolen, or unreadable alien registration, or alien admission document listed in this section.
- (S) Aliens living in the United States with the knowledge and permission of INS whose departure INS does not contemplate enforcing: INS documents which establish these facts.

### 5-014. Opportunity to Submit Documents

Applicants shall be informed that they must present documents which serve as reasonable evidence of United States citizenship or INS issued documents which indicate satisfactory immigration status for CMSP purposes.

- (A) Applicants for full scope CMSP benefits shall have 30 calendar days, or the time it actually takes the county to process the CMSP application, whichever is longer, to submit such documents. The 30-day period begins at the time the completed MC 13 (or MC 210, SAWS 2 or other appropriate Medi-Cal form declaring citizenship/immigration status) is received by the county department.

## CMSP ELIGIBILITY MANUAL

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- (B) Applicants who do not present documentation indicating United States citizenship or satisfactory immigration status within the period prescribed in subsection (A), shall receive restricted CMSP benefits if they meet the criteria set forth in Section 5-016.
- (C) The county department shall provide adequate notice to the individual of any adverse action and shall accord to the individual an opportunity for a hearing.

### 5-015. Verification of Satisfactory Immigration Status

Applicants for full scope CMSP benefits who have declared themselves to be aliens, must also declare in writing whether, to the best of their knowledge and belief, they have a satisfactory immigration status.

- (A) Such aliens shall present original INS issued documents which indicate their status. At least one of these documents should contain an alien registration or alien admission number.
- (B) Counties shall forward copies of the INS issued documents to INS in cases where:
  - (1) The document presented indicates immigration status but does not include an alien registration or alien admission number.
  - (2) The document is suspected to be counterfeit or to have been altered.
  - (3) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.
  - (4) The document is an INS Form I-181b Notification Letter issued in conjunction with a Memorandum of Creation of Record of Lawful Permanent Residence (INS Form I-181), an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for CMSP.

## CMSP ELIGIBILITY MANUAL

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- (C) Full scope CMSP benefits received pending completion of a determination of immigration status by INS shall be reduced to restricted (emergency services only) CMSP benefits upon receipt of a notice from the INS or the applicant/beneficiary of a lack of satisfactory immigration status.

### 5-016. Restricted CMSP Benefits for Certain Aliens

Certain aliens are entitled only to restricted (emergency service) CMSP benefits.

- (A) To be eligible these aliens must be:
  - (1) A CMSP county resident, as specified in Section 5-018.
  - (2) An alien who lacks INS issued documents establishing satisfactory immigration status.
  - (3) A nonimmigrant alien legally admitted to the United States for a limited period.
- (B) Alien applicants for restricted CMSP benefits shall meet all other program requirements except for possessing or having applied for a Social Security Number.

### 5-017. Written Declaration of Status as a Citizen or National of the United States, or an Alien

All individuals requesting or receiving full scope CMSP benefits shall state in writing, on the MC 13 (or MC 210, SAWS 2 or other appropriate Medi-Cal form declaring citizenship/immigration status), under penalty of perjury, whether they are citizens or nationals of the United States or aliens. This shall not apply to applicants for restricted CMSP benefits in any category of aliens covered by a restraining order, injunction or other order issued by a court of competent jurisdiction restricting the requirement of a declaration of citizenship, national of the United States, or alien status.

### 5-018. Residence--General.

An individual applying for, or receiving, CMSP benefits must be a resident of a CMSP county.

## CMSP ELIGIBILITY MANUAL

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- (A) County residence shall be established by either of the following:
  - (1) Physical presence, if there is no intention of leaving the county unless the applicant maintains a home outside the county of physical presence.
  - (2) Living in the county at the time of application, not receiving medical assistance from another county, and having entered the county with a job commitment or to seek employment, whether or not currently employed.
- (B) Family members may establish separate residences without a break in marital or family ties. Only those family members who meet the requirements of this article shall be eligible for CMSP.
- (C) Once county residence is established, it continues until residence is established in another county.
- (D) A person's declaration on the Statement of Facts shall be accepted as proof of residence unless there is evidence to the contrary.

### 5-019. Temporary Absence From the County

Residence shall not be affected by temporary absence from the county for periods of 60 days or less. An absence of 60 days or less shall be presumed to be a temporary absence, unless there is evidence to the contrary. An application or reapplication from an applicant or beneficiary who has been temporarily absent from the county for 60 days or less shall be accepted.

### 5-020. Absence From the County for More Than 60 Days

Absence from the county for more than 60 days shall be presumptive evidence of the applicant's or beneficiary's intent to change county residence.

- (A) The person may contest this presumption by declaring in writing:
  - (1) An intent to return to the county; and
  - (2) The existence of one of the following circumstances:

## CMSP ELIGIBILITY MANUAL

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- (a) Illness or emergency circumstances which prohibit return to the county.
  - (b) Family members with whom the applicant or beneficiary lives are county residents and are physically present in the county.
  - (c) The applicant or beneficiary maintains county housing arrangements.
- (B) Unless there is evidence to the contrary, county residence may be considered to be terminated when an applicant or beneficiary leaves the county and then takes any of the following actions in another county:
  - (1) Purchases, leases, or rents a residence.
  - (2) Becomes employed.
  - (3) Obtains a new address on his or her driver's license.
  - (4) Applies for aid in another county.

### 5-021. Death During Absence From the County

A person who dies during an absence from the county shall be considered a resident if there is evidence that the requirements of Section 5-019 or Section 5-020 were met at the time of death.

## **CMSP ELIGIBILITY MANUAL**

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### **Article 6. Responsible Relatives and Unit Determination**

- 6-010. Responsible Relatives
- 6-011. CMSP Family Budget Unit (CFBU)
- 6-012. CMSP Family Budget Unit Determination, No Family Member in LTC or Board and Care
- 6-013. Ineligible Members of the CMSP Family Budget Unit
- 6-014. Persons Excluded From the CMSP Family Budget Unit

## CMSP ELIGIBILITY MANUAL

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### **Article 6. Responsible Relatives and Unit Determination**

#### **6-010. Responsible Relatives**

In determining CMSP eligibility and share of cost, relative responsibility shall be determined in accordance with the following:

- (A) Relative responsibility shall be spouse for spouse when the spouses are living together in the same home.
- (B) If one spouse is absent from the home due to employment in another locality, they will have their eligibility determined as if they were living together.
- (C) If the spouses are living apart due to a marital break, they shall have their eligibility and share of cost determined as single persons the day following the separation if it is known that the separation will not be temporary in accordance with Section 1-077 (b).
- (D) Parent for ineligible child living in the parent's home.
- (E) Unmarried parents shall be allowed to have their eligibility and share of cost determined as a family unit when both unmarried parents and their common child/children live together in the same home.

#### **6-011. CMSP Family Budget Unit**

The CMSP Family Budget Unit (CFBU) shall be the basic unit of persons considered in determining an applicant's or beneficiary's eligibility and share of cost:

- (C) The CFBU shall be established in accordance with Sections 6-012 and 6-013. Members of the CFBU may be excluded from an established CFBU in accordance with Section 6-014.
- (B) Changes in the CFBU may be reflected in the share of cost determination in the month that the changes are reported if it is to the beneficiary's advantage. Any advantage shall be explained to the beneficiary who will then decide whether the change shall be reflected in the month it is reported.

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### 6-012. CMSP Family Budget Unit Determination

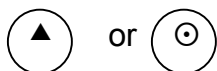
The CFBU for a family shall be determined in accordance with the following:

- (A) Family members who are PA or Other PA recipients shall not be included in the CFBU.
- (B) All family members living in the home, other than individual adults, shall be included in the CFBU in accordance with Section 6-010, whether or not they are eligible for, or wish to receive, CMSP. Potential members of the CFBU may be excluded in accordance with Section 6-014.
- (C) Once the potential members of the CFBU have been identified, the CFBU shall be determined in accordance with the following:

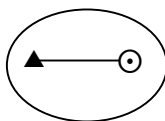
Family Members Living in the Home or LTC who are not PA or Other PA recipients:

SYMBOLS: ▲ = Male adult    ⊙ = Female adult    ◻ = Child    ● = Minor Spouse  
⟨ ⟩ = Ineligible members of CFBU

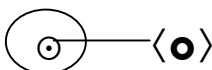
1. Individual adult



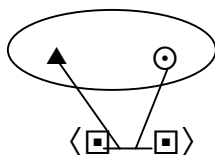
2. Adult and adult spouse



3. Adult and minor spouse



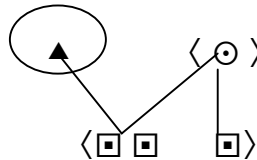
4. Adult unmarried parents, mutual children



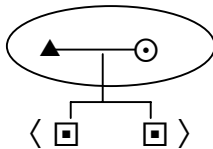
## CMSP ELIGIBILITY MANUAL

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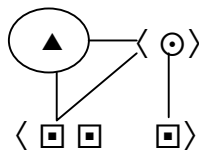
5. Both adult unmarried parents, mutual children, and separate children of either or both parents



6. Adult parent, adult spouse, mutual children



7. Adult married parents, mutual children, and separate children of either or both parents



NOTE: The above examples ONLY illustrate the CFBU, not the MFBU.

## CMSP ELIGIBILITY MANUAL

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### 6-013. Ineligible Members of the CMSP Family Budget Unit

A CFBU may contain ineligible members:

- (A) Persons who are ineligible for CMSP for any of the following reasons shall be ineligible members of the CFBU, as limited by (B).
  - (1) Receiving or potentially eligible for (due to age or other factors that may "link" the individual to the Medi-Cal program) Medi-Cal.
  - (2) Refusal to apply for, or divulge, a Social Security Number.
  - (3) Refusal to apply for a health insurance claim number (HIC) if eligible for one.
  - (4) Refusal to apply for and accept unconditionally available income.
  - (5) Deliberately refusing to cooperate with the Medi-Cal program requirements which results in their denial or termination of Medi-Cal eligibility.
  - (6) Alien status.
- (B) A child who has separate income or property may be treated as an excluded member of the CFBU in accordance with Section 6-014. This is an option of the person who has legal responsibility for the child. A child or spouse receiving Medi-Cal shall always be an ineligible member of the CFBU.
- (C) Persons who are eligible for Transitional Medi-Cal (TMC) eligibility shall be ineligible members of the CFBU.
- (D) Ineligible members of a CFBU shall be included in the CFBU for the purpose of determining eligibility based on property and share of cost.

### 6-014. Persons Excluded From the CMSP Family Budget Unit

Any child not receiving Medi-Cal may be excluded from the CFBU if the child has separate income or property. This is an option of the person who has legal responsibility for the child. Excluded children shall not:

- (A) Be included in the CFBU for the purposes of determining eligibility and share of cost.
- (B) Have their health care costs used to meet the CFBU's share of cost.

## **CMSP ELIGIBILITY MANUAL**

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### **Article 7. Property**

- 7-010. Property Evaluation
- 7-011. Property Evaluation-Sneed v. Kizer
- 7-012. Availability of Property
- 7-013. Treatment of Property
- 7-014. Owner of Property
- 7-015. Contracts of Sale
- 7-016. Conversion or Transfer of Property
- 7-017. Conversion of Property--Treatment
- 7-018. Transfer of Property Which Does Not Result in Ineligibility
- 7-019. Transfer of Property Which Results in Ineligibility
- 7-020. Period of Ineligibility Due to Transfer of Property
- 7-021. Market Value of Property
- 7-022. Encumbrances
- 7-023. Share of Encumbrances Determination
- 7-024. Net Market Value
- 7-025. Utilization Requirements
- 7-026. Utilization--Good Cause
- 7-027. Exemption of Property
- 7-028. Property Reserve
- 7-029. Property Limit
- 7-030. Spenddown on Excess Property
- 7-031. Items of Property to be Considered
- 7-032. Principal Residence
- 7-033. Property Used to Purchase a Principal Residence
- 7-034. Other Real Property
- 7-035. Timeshares and Timesharing Arrangements
- 7-036. Mortgages, Deeds of Trusts, and Other Promissory Notes
- 7-037. Life Estate
- 7-038. American Indian's Interest in Land Held in Trust by the United States Government
- 7-039. Federal Payments to Indians and Alaskan Natives--Property
- 7-040. Cash on Hand
- 7-041. Checking and Savings Accounts
- 7-042. Savings of a Child
- 7-043. Income Tax Refunds
- 7-044. Lump Sum Payments
- 7-045. Stocks, Bonds, Mutual Funds, Money Market Accounts
- 7-046. United States Savings Bonds and Treasury Bills
- 7-047. Motor Vehicles

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- 7-048. Boats, Campers, Trailers
- 7-049. Household Items
- 7-050. Personal Effects
- 7-051. Recreational Items
- 7-052. Musical Instruments
- 7-053. Livestock, Poultry, and Crops
- 7-054. Life Insurance
- 7-055. Burial Insurance
- 7-056. Burial Plots, Vaults, and Crypts
- 7-057. Burial Trusts or Prepaid Burial Contracts
- 7-058. Loans
- 7-059. Business Property
- 7-060. Stocks Held by Natives of Alaska
- 7-061. Property Held in Trust
- 7-062. Pension Funds, IRA's, and Other Retirement Accounts
- 7-063. CalWORKs Restricted Accounts

## CMSP ELIGIBILITY MANUAL

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### Article 7. Property

#### 7-010. Property Evaluation

After determining the composition of the CFBU, the county department shall evaluate the property holdings of the CFBU to determine:

- (A) Property to be included in determining eligibility.
- (B) The value of the included property.
- (C) Whether the total value of the included property exceeds the property reserve limits specified in Section 7-030.

#### 7-011. Property Evaluation - Sneed v. Kizer

The county department shall consider the results of a Medi-Cal eligibility determination made pursuant to Sneed v. Kizer for any CMSP applicant/eligible who was included in the Medi-Cal determination.

- (A) All property attributed to a CMSP applicant/eligible from a Sneed v. Kizer calculation shall be included in their property reserve.
- (B) The property reserve shall be compared with the appropriate property limit shown in Section 7-029 in order to determine eligibility.

#### 7-012. Availability of Property

Property which is not available shall not be considered in determining eligibility. Property not available includes, but is not limited to, any property affected by court action/legal proceedings which is frozen until such action/proceedings are completed.

In addition, property which is not accessible to the applicant/eligible shall not be considered in determining eligibility until that property becomes available.

#### 7-013. Treatment of Property

The separate property and share of community property of any person included in the CFBU shall be considered in determining CMSP eligibility. A spouse's share of community property is always one-half of the current total community property.

### 7-014. Owner of Property

The owner of property, for CMSP eligibility purposes, shall be the person who holds legal title to the property unless otherwise specified in these regulations. Ownership of property may be vested in one individual or shared with other individuals.

### 7-015. Contracts of Sale

Property purchased under a signed contract of sale by the applicant or beneficiary shall be included in the property reserve of the applicant or beneficiary.

- (A) Property being sold by the applicant or beneficiary under a signed contract of sale shall not be considered the property of the applicant or beneficiary. The interest payments received under the contract of sale shall be unearned income. The principle payments received under the contract of sale shall be property.
- (B) Property being purchased or sold under a verbal or unsigned contract of sale shall be considered the property of the seller until the sale is complete.

### 7-016. Conversion or Transfer of Property

Conversion or transfer of property may affect eligibility. Sections 7-017 and 7-018 describe methods of converting or transferring property, and the effect of each method on eligibility.

### 7-017. Conversion of Property--Treatment

Conversion of property in itself from one form to another has no effect on eligibility; however, the property obtained through a conversion may have an effect on eligibility and, therefore, shall be evaluated to determine its effect. Insurance or other third-party payments for the loss or damage of property shall be treated as converted property, rather than income.

### 7-018. Transfer of Property Which Does Not Result in Ineligibility

- (A) Transfer of property shall not result in ineligibility for CMSP under any of the following conditions:

## CMSP ELIGIBILITY MANUAL

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- (1) The property would have been considered exempt pursuant to Section 7-027 at the time of transfer.
- (2) The net market value of the property transferred, when included in the property reserve, would not result in ineligibility. The determination of value shall be made as of the time of transfer. If eligibility exists, the value of the property shall no longer be considered.
- (3) Adequate consideration is received. Adequate consideration is the fair market value of the property as defined in Section 7-021 and includes:
  - (a) A transfer which was made to satisfy a legal debt.
  - (b) A transfer which was to reimburse someone other than a responsible relative, as specified in Section 6-010 for care and benefits provided on the basis of an agreement or understanding that reimbursement would be made. The applicant or beneficiary shall provide evidence that clearly establishes that the value of the care or benefits provided was reasonably equivalent to the value of the property transferred.
  - (c) A written transmittance of a married couple's non-exempt community property into two equal shares of separate property through an interspousal agreement.
- (4) Foreclosure or repossession of the property was imminent at the time of transfer, and there is no evidence of collusion.
- (5) The transfer was made in return for an enforceable contract for life care which does not include complete medical care. In this case, each full item of need provided under the life care contract shall be considered income in-kind in accordance with Section 8-015.
- (6) The transfer was made without adequate consideration, but the applicant or beneficiary provides sufficient evidence, as specified in Section 7-019(B), to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

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- (B) There is a presumption that property transferred by the applicant or beneficiary more than two months preceding the date of the initial application was not transferred to establish eligibility or reduce the share of cost. Such property shall not be considered in determining eligibility.
- (C) While the transfer of property by an applicant or beneficiary from one form to another as described in (A) above, has no effect on eligibility, any property obtained by an applicant or beneficiary through such a transfer may have an effect on eligibility and therefore shall be evaluated to determine its effect.

### 7-019. Transfer of Property Which Results in Ineligibility

- (A) Transfer of property shall result in ineligibility for CMSP if:
  - (1) The transfer met none of the conditions specified in Section 7-018; or
  - (2) The transfer was in return for an enforceable life care contract, which includes complete medical care.
- (B) Transfer of property without adequate consideration shall result in ineligibility for CMSP if the transfer was made to establish eligibility or to reduce the share of cost.
  - (1) It shall be presumed that property transferred without adequate consideration was for the purpose of establishing eligibility or to reduce the share of cost as limited by (2).
  - (2) To overcome the presumption that the applicant or beneficiary has the burden of establishing that the presumption is not correct.
    - (a) The applicant or beneficiary shall provide evidence which may include verification of the onset of traumatic injury or illness, diagnosis of a previously undetected disability condition or unexpected loss of income or resources after transfer and/or that adequate resources were available at the time of the transfer or property for support and medical care considering such things as the applicant's or beneficiary's age, health, life expectancy, and ability to understand the extent of the resources.

- (b) Such evidence may also include other subjective evidence including, but not limited to, evidence that the claimant transferred property in order to avoid probate and/or that the claimant had no knowledge of CMSP or its benefits at the time of transfer.
- (c) However, any such evidence presented must be convincing evidence in order to overcome the presumption stated in (B)(1) above.

### 7-020. Period of Ineligibility Due to Transfer of Property

- (A) Following a determination of ineligibility due to the transfer of property, there shall be a period of ineligibility. This period shall be the time during which the net market value of the property at the time of transfer, less consideration received, would have supported the applicant or beneficiary and the applicant's or beneficiary's family.
- (B) The period of ineligibility shall be computed in the following manner:
  - (1) Determine the net market value of the property at the time of transfer, less any consideration received which is the net value of the property transferred.
  - (2) Determine the portion of the net value of the property transferred which, if included in the property reserve at the time of transfer, would not have caused such reserve to exceed the property limit that was applicable at that time.
  - (3) The portion of the net value of the property transferred that would have exceeded the property limit at the time of transfer is the excess net value of the property transferred and shall be used to determine the period of ineligibility.

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- (4) The number of months in the period of ineligibility shall be determined by dividing the excess net value of the property transferred by the monthly maintenance need for the CFBU. The maintenance need used shall be the maintenance need in effect during each individual month since the date of the transfer. Income received by the CFBU after the transfer shall not affect this computation.
- (5) The period of ineligibility may be further reduced by deducting the actual cost to the applicant or beneficiary of the following:
  - (a) Medical expenses.
  - (b) Out-of-home care costs in excess of the maintenance needs.
  - (c) Major home repairs necessary to put the home into a livable condition.
- (C) The period of ineligibility shall begin the first of the month following the date the transfer occurred which resulted in ineligibility, unless a ten day notice is required and cannot be given. In that case, the period of ineligibility shall begin the first of the next month.
- (D) The period of ineligibility shall end when any of the following situations occur:
  - (1) The property which was transferred and caused ineligibility is reconveyed to the applicant or beneficiary.
  - (2) The applicant or beneficiary receives adequate consideration for the property.
  - (3) Deduction of the amounts specified in (B) (4) and (5) has reduced the excess net market value to zero.

### 7-021. Market Value of Property

The market value of property shall be determined.

## CMSP ELIGIBILITY MANUAL

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- (A) The market value of real property shall be either (1) or (2) below, unless the applicant or beneficiary chooses to meet the conditions of (3), and (3) is lower:
  - (1) The assessed value determined under the most recent property tax assessment, if the property is located in California.
  - (2) The value established by applying the assessment method used in the area where the property is located, if the property is located outside of California.
  - (3) The value established as the result of an appraisal by a qualified real estate appraiser, if the appraisal is obtained by the applicant or beneficiary and provided to the county department.
- (B) The market value of each item of personal property shall be determined by the specific methods contained in this article.
- (C) The market value of notes secured by deeds of trust and mortgages which are considered as other real property in accordance with Section 7-036 (B), shall be established in accordance with Section 7-036 (C).

### 7-022. Encumbrances

Encumbrances of record are obligations for which the property is security. Encumbrances include, but are not limited to:

- (A) Loans.
- (B) Attachments for debts and taxes.
- (C) Chattel mortgages and liens.

### 7-023. Share of Encumbrances Determination

The share of encumbrances shall be determined as follows:

- (A) Determine the total market value of the property.

## CMSP ELIGIBILITY MANUAL

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- (B) Determine the market value of the portion of the property that is to be considered.
- (C) Divide the amount determined in (B) by the amount determined in (A) to obtain the percentage that the portion of property is of the total property.
- (D) Multiply the total encumbrances on the property by the percentage determined in (C) above. This is the share of encumbrances.

### 7-024. Net Market Value of Property

The net market value of real or personal property is the owner's equity in that property.

- (A) The net market value shall be determined by subtracting the encumbrances of record from the market value.
- (B) The net market value of real or personal property owned jointly with other persons shall be determined by subtracting the applicant's or beneficiary's share of encumbrances from the applicant's or beneficiary's interest in the property.

### 7-025. Utilization Requirements

Other real property, not part of a business, as specified in Section 7-034 (B), shall be utilized in order to be exempt unless the net market value, when added to the net market value of other nonexempt property, falls within the limits set forth in Section 7-029.

- (A) The property is utilized if the owner is receiving net yearly income from the property of at least six percent of the property's net market value.
  - (1) For property not limited to seasonal use, this requirement is met if the net monthly income from the property is one-twelfth (1/12) of six percent of the net market value of the property.
  - (2) For property limited to seasonal use, this requirement is met if the net yearly income is six percent of the net market value of the property. Property limited to seasonal use includes, but is not limited to, farmland or summer cabins.

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- (3) For purposes of determining net yearly income for property limited to seasonal use, the year is considered to begin in the first month of the year in which income normally begins. Income from all months of the year shall be considered in determining net yearly income of the property, regardless of the eligibility status of the beneficiary in those months.
  - (4) This requirement is met if the property has been sold, or the sale is in escrow and there is a bona fide attempt to close the sale.
- (B) The owner shall be allowed six months to meet utilization requirements. The six month period shall be known as the utilization period and shall begin on the first of the month following issuance of a notice of action informing the applicant or beneficiary that the property is not yielding sufficient income, as required in (A). The utilization period shall be stayed during periods of ineligibility in accordance with (J).
- (C) The utilization period may be extended for a maximum of one year for good cause, as specified in Section 7-026.
- (D) If the county department determines that utilization requirements can only be met by sale of the property, the utilization period shall be extended for as long as the property is listed for sale, that no bona fide offer to purchase the property has been rejected and meets the requirements to be considered otherwise unavailable in accordance with Section 7-012.
- (E) An existing environmental impact report involving a property shall be considered by the county department in determining the utilization potential of the property.
- (F) A life estate interest in real property shall be utilized in accordance with this section.
- (G) The applicant or beneficiary may arrange for a reassessment of the property during the utilization period. The assessment shall affect utilization as follows:
  - (1) The reassessment value shall be used in determining utilization requirements.

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- (2) The reassessment shall not affect the beginning date or the length of the utilization period.
- (H) The entire net market value of property not utilized in accordance with this section shall be included in the property reserve on the first of the month following the last month of the utilization period.
- (I ) A utilization period shall begin whenever:
  - (1) An applicant, and the applicant owns other real property subject to utilization which does not receive income equivalent to six percent of the property's net market value.
  - (2) The other real property ceases to be utilized.
  - (3) The net market value of other real property, when added to the net market value of other nonexempt property, no longer falls within the property limits specified in Section 7-029.
- (J) When a utilization period has begun and the beneficiary becomes ineligible for CMSP prior to its expiration, the remainder of the utilization period shall be applied if eligibility is subsequently reestablished and the property is not utilized at that time. However, if verification is provided that shows that the property was utilized at any time during the period of ineligibility, a new utilization period shall begin.

### 7-026. Utilization--Good Cause

Good cause may affect utilization requirements.

- (A) Good cause, as required in Section 7-025 (C), shall be found only if the applicant or beneficiary has made a bona fide effort to meet utilization requirements and is unable to do so because of circumstances beyond such person's control.

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- (B) Circumstances beyond a person's control shall include any of the following situations:
- (1) Death of a part owner of the property and inability or refusal of the administrator or executor of the estate or other responsible person to take actions necessary to meet the utilization requirements if such person is other than the applicant or beneficiary.
  - (2) Prolonged illness causing the applicant or beneficiary to be homebound or hospitalized during the utilization period and unable to take the necessary action to meet utilization requirements or to arrange for an agent to do so.
  - (3) Other reasons which the county department determines meet the general intent of good cause.

### 7-027. Exemption of Property

Certain real and personal property is exempt and shall not be included in determining eligibility. These property exemptions are specified in Sections 7-032 through 7-061. All real and personal property not exempt is nonexempt property and must be included in the eligibility determination.

### 7-028. Property Reserve

The property reserve is the net market value of the nonexempt property of those persons whose property is considered in determining the eligibility of the CFBU.

### 7-029. Property Limit

To be eligible for CMSP the countable property reserve must fall within the specified ranges listed below for the size of the CFBU. As long as the property reserve falls within the appropriate range sometime during the month, except where conditions specified in Section 7-030 are met, the property limit requirements will be satisfied to establish eligibility.

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The property reserves for CMSP are:

Number of Persons Whose Property is Considered	Property Limit
1 person	\$2,000
2 persons	\$3,000
3 persons	\$3,150
4 persons	\$3,300
5 persons	\$3,450
6 persons	\$3,600
7 persons	\$3,750
8 persons	\$3,900
9 persons	\$4,050
10 persons	\$4,200

### 7-030. Spenddown of Excess Property

Eligibility may be established by spenddown of excess property when the property reserve exceeds the property limit.

If the property reserve has been in excess of the limit from the first day of the month of application through the date of application, and the property reserve is brought within the property limit by the last day of the month of application, the CFBU shall be eligible if all other eligibility requirements are met.

### 7-031. Items of Property to be Considered

The items of property to be considered in determining eligibility are described in Sections 7-032 through 7-061. Each of these sections indicate:

- (A) Whether all or a portion of the item is exempt.
- (B) The method for determining the net market value of the specific item of property.
- (C) Any other information necessary to evaluate the property.

### 7-032. Principal Residence

Principal residence means the property in which the applicant or beneficiary has an ownership interest and which the applicant or beneficiary uses as his/her home.

- (A) The principal residence of the applicant or beneficiary is exempt from inclusion in the property reserve. The principal residence:
  - (1) May be either real or personal property, fixed or mobile, and located on land or water.
  - (2) Includes all land which appertains to the home and any other buildings located on such land.
  - (3) May be a multiple unit dwelling. If any portion of the multiple unit dwelling serves as the applicant's or beneficiary's principal residence, the entire multiple unit dwelling is exempt under this Section.

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- (B) The property shall continue to be considered the applicant's or beneficiary's principal residence and shall be exempt during his/her absence under any of the following circumstances:
- (1) During any absence of less than six months duration, other than admission to a skilled nursing facility or intermediate care facility if the applicant or beneficiary establishes an intent to return to the principal residence.
  - (2) The applicant's or beneficiary's spouse or a dependent relative, as defined in Section 1-042 or his/her child under age 21 continues to reside in the principal residence.
  - (3) The principal residence cannot be either:
    - (a) Sold, because there are legal obstacles preventing the sale of the property, and the applicant or beneficiary or person acting on his/her behalf provides evidence of attempts to overcome such obstacles; or
    - (b) Readily converted to cash, but a bonafide effort is being made to sell the property. For purposes of this Section, a bonafide effort to sell means that all of the following conditions are met:
      - (i) The property is listed for sale with a licensed real estate broker for its fair market value as established by a qualified real estate appraiser.
      - (ii) The applicant or beneficiary provides written documentation that a continuous effort is being made to sell the property.

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- (iii) Offers at fair market value are accepted.
  - (iv) All offers are reported to the county department.
- (C) Only one property at a time shall be exempt as a principal residence.
- (D) Real property which is no longer exempt as a principal residence, shall be considered other real property beginning the first day of the month following the date it ceases to qualify as a principal residence. Any change in the treatment of property which adversely affects the applicant or beneficiary must have an appropriate and timely notice of action issued.
- (E) Personal property which is no longer exempt as a principal residence, shall be included in the property reserve beginning the first day of the month following the date it ceases to qualify as a principal residence.

### 7-033. Property Used to Purchase a Principal Residence

The proceeds from the sale of real property owned by the applicant or beneficiary shall be exempt from inclusion in the property reserve for a period of six months from the date of receipt so long as

- (A) The proceeds are used to purchase a principal residence.
- (B) The proceeds are applied to the cost of moving, necessary furnishings, repair or alteration to the principal residence.
- (C) If any portion of the proceeds are used for any other purpose, the remainder shall not be affected so long as it is being retained to apply toward the purchase of a principal residence.

### 7-034. Other Real Property

Nonbusiness real property not exempt as a principal residence is other real property. Deeds of trust as specified in Section 7-036 (B) are also regarded as other real property for purposes of this Section.

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- (A) Other real property not exempt under any other section of these regulations shall be exempt if both the following are met:
  - (1) The property has a net market value of \$6,000 or less.
  - (2) The owner meets the utilization requirements set forth in Section 7-025.
- (B) Other real property with a net market value of more than \$6,000 shall be considered as follows:
  - (1) The first \$6,000 of net market value shall be exempt if the owner meets the utilization requirements set forth in Section 7-025.
  - (2) The net market value in excess of \$6,000 shall be included in the property reserve.

### 7-035. Timeshares and Timesharing Arrangements

The value of timeshares and timesharing arrangements shall be included in the property reserve. This value shall be the lesser of the following:

- (A) The purchase price, minus any encumbrances; or
- (B) The current market value, minus any encumbrances.

### 7-036. Mortgages, Deeds of Trust, and other Promissory Notes

Nonbusiness mortgages, notes secured by deeds of trust, and other promissory notes which can be sold or discounted shall be included in the property reserve, except as specified in (A).

- (A) A mortgage or a note secured by a deed of trust, from the sale of real property owned by the applicant or beneficiary, shall be considered other real property and subject to all the conditions placed upon real property in these regulations.

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- (B) The market value of all mortgages and notes shall be the value as established in (1) below, unless the applicant or beneficiary chooses to meet the conditions of (2), and (2) is lower.
  - (1) The principal amount remaining on the note.
  - (2) The appraised value obtained by the applicant or beneficiary from a qualified appraiser. Parties qualified to appraise such items of property include, but are not limited to:
    - (a) Banks.
    - (b) Savings and Loan Associations.
    - (c) Credit Unions.
    - (d) Licensed loan or mortgage brokers.
- (C) Proceeds from mortgages and notes shall be treated as follows:
  - (1) The principal portion of the payment shall be treated as property.
  - (2) The interest portion of the payment shall be unearned income and shall be included in determining the share of cost.

### 7-037. Life Estate

A life estate interest in real property shall be considered real property. A life estate interest in personal property shall be considered personal property.

- (A) The value of a life estate shall be:
  - (1) For a revocable life estate:
    - (a) If the applicant or beneficiary was the owner of the property prior to transfer, the entire market value of the property on which the life estate is held.

- (b) If the applicant or beneficiary was not the owner of the property prior to transfer, the value determined in accordance with the California State Gift Inheritance Tax Formula as specified in (2) (a) below.
- (2) For an irrevocable life estate, the value is determined in accordance with the California State Gift Inheritance Tax Formula, as appropriate for the age and sex of the individual, given below:
  - (a) When a life estate meets the conditions in (1) (b) or (2) above, the current value of the life estate shall be determined as follows:
    - (i) Determine the current market value of the property in accordance with Section 7-021.
    - (ii) Deduct any encumbrances in accordance with Section 7-024 to determine the net market value.
    - (iii) Multiply the net market value of the life estate by the age and gender factor specified in the following table:

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AGE	FACTOR FOR FEMALES	FACTOR FOR MALES
21	.93724	.91046
22	.93412	.90678
23	.93085	.90292
24	.92739	.89884
25	.92375	.89445
26	.91993	.88972
27	.91591	.88465
28	.91168	.87925
29	.90725	.87353
30	.90259	.86750
31	.89773	.86117
32	.89265	.85451
33	.88733	.84752
34	.88176	.84020
35	.87593	.83255
36	.86985	.82455
37	.86349	.81622
38	.85687	.80755
39	.84998	.78954
40	.84281	.78923
41	.83536	.77960
42	.82764	.76967
43	.81962	.75944

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AGE	FACTOR FOR FEMALES	FACTOR FOR MALES
45	.80269	.73808
46	.79374	.72695
47	.78448	.71552
48	.77488	.70385
49	.76498	.69198
50	.75476	.67997
51	.74423	.66785
52	.73339	.65560
53	.72220	.64320
54	.71062	.63060
55	.69859	.61776
56	.68612	.60446
57	.67320	.59131
58	.65988	.57778
59	.64622	.56417
60	.63226	.55052
61	.61803	.53687
62	.60352	.52321
63	.58871	.50954
64	.57355	.49585

- (B) The value of the life estate may also be determined for a time in the past when a property transfer occurred using these factors for the individual's age at the time of transfer and by deducting the encumbrances that existed at that time.

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### 7-038. American Indian's Interest in Land Held in Trust by the United States Government

The entire market value of an American Indian's interest in land held in trust by the United States Government shall be exempt.

### 7-039. Federal Payments to Indians and Alaskan Natives--Property

Federal payments to Indians and Alaskan Natives shall be treated as follows:

- (A) Payments received from the Federal Government under Public Law 90-507 shall be excluded from consideration as personal property when the total of nonexempt personal property, including such payments, does not exceed \$2,000 for each individual. Payments converted into other property shall be treated the same as the payments. However, if the property received through such a conversion is again converted, the property acquired is included in the property reserve unless otherwise exempt.
- (B) Payments received from the Federal Government under Public Law 92-254 or Section 6 of Public Law 87-775 shall be exempt.
- (C) Per capita payments distributed pursuant to any judgement of the Indian Claims Commission, or the Court of Claims in favor of any Indian Tribe are exempt.
- (D) Shares of stock and money payments made to Alaskan Natives under the Alaskan Native Claims Settlement Act are exempt as long as the payments or stock remain separately identifiable and not commingled with nonexempt resources. Any property obtained from stock investments under the Act is not exempt.
- (E) Receipts derived from lands, as specified in Section 8-035 (E), shall be exempt providing the monies:
  - (1) Are retained by the original recipient;
  - (2) Are not commingled;
  - (3) Can be separately identified as a proportionate share of the applicant's or beneficiary's property.

### 7-040. Cash on Hand

Cash on hand shall be included in the property reserve, unless it is income received in that month.

### 7-041. Checking and Savings Accounts

The entire amount in nonbusiness checking and savings accounts which is available in accordance with Section 7-012 to the CFBU shall be included in the property reserve, subject to the limitations in Section 7-042 and the following conditions:

- (A) Income received during a month and deposited in a checking or savings account shall not be considered as property during that month.
- (B) Accounts held with persons whose property is not otherwise included in the property reserve of the CFBU shall be considered available in their entirety if the applicant, beneficiary, or other CFBU member who has the account has unrestricted access to the funds, unless all or a portion of the funds are unavailable in accordance with Section 7-012.

### 7-042. Savings of a Child

Reasonable amount saved from a child's exempt earnings for future education or for future identifiable needs are exempt as property.

### 7-043. Income Tax Refunds

Income tax refunds shall be included in the property reserve.

### 7-044. Lump Sum Payments

Nonrecurring lump sum social insurance payments, such as nonrecurring lump sum payments of any of the items specified in Section 8-013 (A) through (I) shall be included in the property reserve, except for:

- (A) Retroactive SSI and Title II benefit payments which shall be exempt for six months after the month in which they were received.

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### 7-045. Stocks, Bonds, Mutual Funds, Money Market Accounts

Stocks, bonds, mutual funds, and money market accounts shall be included in the property reserve. The value of these items shall be the closing price on the date the property is evaluated. The value may be verified by:

- (A) Contacting a licensed stock broker.
- (B) Checking the stock or mutual fund listings in the business section of the newspaper for the date that the valuation is made.
- (C) Other credible sources which list the item and the closing price, including, but not limited to, a stock exchange web page on the internet.

### 7-046. United States Savings Bonds and Treasury Bills

United States Savings Bonds and Treasury Bills shall be included in the property reserve. The value of these bonds shall be the amount for which they can be sold.

### 7-047. Motor Vehicles

Motor vehicles shall be considered as property.

- (A) One motor or other vehicle that is used for transportation shall be exempt, subject to the following conditions:
  - (1) The applicant or beneficiary shall be allowed to choose which vehicles used for transportation shall be exempt, except that recreational vehicles and vehicles used for business shall be considered to be used for transportation only if other motor vehicles are not available to provide transportation for the applicant or beneficiary.
  - (2) A vehicle owned by an applicant or beneficiary who no longer drives shall be exempt when other individuals use the vehicle to meet the transportation needs of the applicant or beneficiary.
- (B) The net market value of all nonexempt motor vehicles shall be included in the property reserve.

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- (C) The net market value of a motor vehicle shall be determined by the following process:
  - (1) Determine the class of the motor vehicle.
  - (2) Determine the vehicle license fee which does not include registration or weight fees, using the class and the State Department of Motor Vehicles (DMV) License fee chart.
  - (3) Multiply the vehicle license fee by 50. This is the market value of the motor vehicle.
  - (4) Subtract any encumbrances of record from the market value. This is the net market value.
- (D) In those cases where the class of the motor vehicle is unknown or unavailable, the county department or the applicant or beneficiary shall contact the DMV to determine the class or license fee of the motor vehicle.
- (E) In those cases where the applicant or beneficiary does not agree with the net market value, one of the following methods will be used for vehicle valuation:
  - (1) Use one of the following sources for vehicle valuation: Kelley Blue Book, National Auto Dealers Association (NADA), or one appraisal from a disinterested knowledgeable source.
  - (2) The net market value shall be the market value minus any encumbrances of record.

### 7-048. Boats, Campers, Trailers

Boats, campers and trailers shall be considered as property.

- (A) The net market value of boats, campers and trailers, including mobile homes, which are not assessed as real property by the county assessor, shall be included in the property reserve unless exempt as:
  - (1) A home; or
  - (2) A vehicle used for transportation.

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- (B) Items in (A) which are assessed as real property by the county assessor and which are not exempt as a home shall be considered as other real property and treated in accordance with Section 7-034.
- (C) The market value of these items shall be determined by any of the following:
  - (1) The average of three appraisals by dealers, insurance adjustors, or personal property appraisers submitted to the county department by the applicant or beneficiary.
  - (2) The market value placed on the item by the county assessor.
  - (3) The market value of the item determined by use of the DMV License Fee chart.
  - (4) The original purchase price of the item if the applicant or beneficiary does not wish or is unable to provide three appraisals, or the value cannot be determined in accordance with (2) or (3).
  - (5) The net market value shall be the market value less any encumbrances of record.

### 7-049. Household Items

All items used to furnish and equip a home shall be exempt.

### 7-050. Personal Effects

Personal effects are to be considered as property.

- (A) All items of clothing are exempt.
- (B) The following jewelry shall be exempt:
  - (1) Wedding and engagement rings.
  - (2) Heirlooms.
  - (3) Any other item of jewelry with a net market value of \$100 or less.

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- (C) The net market value of jewelry not exempted above shall be included in the property reserve.
- (D) The net market value of jewelry shall be the value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is necessary. If verification is required:
  - (1) The applicant or beneficiary shall submit:
    - (a) A sales slip showing the actual purchase price; or
    - (b) At least one written statement, signed and dated from a jeweler, insurance adjuster, or personal property appraiser. The statement shall include a description of the item and its current market value.
  - (2) Subtract any encumbrances of record from the market value. This is the net market value.

### 7-051. Recreational Items

All recreational items shall be exempt, except for motor vehicles, such as motor homes and snowmobiles, which shall be considered in accordance with Section 7-047. Boats, campers, and trailers shall be considered in accordance with Section 7-048.

### 7-052. Musical Instruments

All musical instruments shall be exempt.

### 7-053. Livestock, Poultry, and Crops

Livestock, poultry, and crops are to be considered as property.

- (A) These items will be exempt if retained primarily for personal use.
- (B) Equipment and personal property used to produce and/or maintain livestock, poultry, and crops primarily for personal use shall be exempt.

- (C) The net market value of livestock, poultry, or crops retained primarily for profit shall be included in the property reserve except to the extent it is exempt as business property in accordance with Section 7-059.
- (D) The net market value of livestock, poultry, or crops shall be the net market value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is required. If verification is required:
  - (1) The owner shall submit three appraisals from persons or businesses dealing in livestock, poultry, or crops. The average of the three appraisals shall be the market value.
  - (2) Subtract any encumbrances of record from the market value. This is the net market value.

### 7-054. Life Insurance

Except for term insurance, life insurance policies owned by a member of the CFBU shall be exempt if the combined face value of all policies on the insured individual is \$1,500 or less. If the combined face value of all the policies exceeds \$1,500, the net cash surrender value of the life insurance policies shall be included in the property reserve.

### 7-055. Burial Insurance

The cash surrender value of burial insurance policies on any individual in the family shall be exempt.

### 7-056. Burial Plots, Vaults, and Crypts

Burial plots, vaults, and crypts are to be considered as property.

- (A) Any burial plot, vault, or crypt retained for use by any member of the family shall be exempt.
- (B) The net market value of any burial plot not exempted above is other real property and shall be subject to all conditions placed on other real property in these regulations.

- (C) The net market value of any burial vault or crypt not exempted above is personal property and shall be included in the property reserve.
- (D) The net market value of a burial plot, vault, or crypt shall be the market value listed by the applicant or beneficiary on the Statement of Facts, unless the county department determines further verification is required. If verification is required:
  - (1) The applicant or beneficiary shall submit a statement of value from the organization from which the plot, vault, or crypt was purchased. This statement of value shall be the market value.
  - (2) Subtract encumbrances of record from the market value. This is the net market value.

**7-057. Burial Trusts or Prepaid Burial Contracts**

Burial trusts and prepaid burial contracts are to be considered as property and treated as follows:

- (A) The first \$1,800 paid for burial trusts and prepaid burial contracts for funeral, cremation, or internment expenses for an individual shall be exempt provided trusts or contracts are held with one of the following:
  - (1) A banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds.
  - (2) Not less than three persons, one of whom may be an employee of the funeral director handling the Pre-need Funeral Arrangement.
  - (3) A cemetery authority which has established an endowment care fund under Section 7100.1 of the Health and Safety Code.
- (B) Securities, issued by a licensed cemetery authority, which are convertible only into payment for funeral, cremation, or internment expenses shall be exempt.
- (C) The remainder of the amount paid for burial trusts and prepaid burial contracts, not exempted in (A) or (B), shall be included in the property reserve.

**7-058. Loans**

- (A) Loans shall be exempt as property in the month in which they are any of the following:
  - (1) Exempt as income in accordance with Section 8-033.
  - (2) Treated as income in the month of receipt because no repayment is required.
- (B) Loans which require repayment, except those exempted in (A) (1), shall be included in the property reserve beginning in the month of receipt.

**7-059. Business Property**

- (A) Equipment, inventory, licenses, and materials which are in current use and are necessary for employment, self-support, an approved plan of rehabilitation, or self-care necessary for employment, shall be exempt.
  - (1) Equipment, inventory, licenses, and materials shall be considered necessary for employment if one of the following conditions is met:
    - (a) The applicant or beneficiary uses this property for employment.
    - (b) The owner of the property is currently unemployed but has been required to use this property for employment in the past and can provide reasonable evidence that the owner is actively seeking employment which will require the use of the same property. This property shall be exempt for a maximum of one year from the date the owner became unemployed.
    - (c) The owner verifies the existence of a business by providing prior to current year tax returns for the business, such as the Internal Revenue Service Schedule C ("Profit or Loss From Business or Profession").

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- (d) If business tax returns are not available and subsections (A) and (B) are not applicable, the owner shall provide documentation such as business receipts, cancelled checks, invoices, sales receipts, and bank statements sufficient to verify the existence of a business.
- (2) A business or means of self-support that has operated in the past shall be exempt from the requirements to realize any actual income or to utilize any business property for a maximum of:
  - (a) One year during a period when it is not in operation if the owner can provide evidence that both of the following conditions are met:
    - (i) The business or means of self-support is not in operation due to reasons beyond the owner's control.
    - (ii) Operation will resume within one year of the date operation ceased.
  - (b) Two years if operation ceased due to the owner's illness or disability if the owner provides verification of:
    - (i) The illness or disability; and
    - (ii) A plan to resume operation within two years of the date operation ceased.
- (3) Equipment, inventory, licenses, and materials shall be considered necessary for an approved plan of rehabilitation or self-care necessary for employment if the county department determines that the property is necessary for any of the following:
  - (a) Training which will lead to employment or self-support;
  - (b) Future employment or a means of self-support that will result from a plan of rehabilitation established by the county or the Department of Rehabilitation; or

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- (c) Employment or a means of self-support that will continue after a period of illness or a period of convalescence, or both.
- (B) Motor vehicles shall be considered business equipment only if used for employment or for a means of self-support other than for commuting to and from work.
- (C) Cash on hand and money in checking accounts necessary for business operations or a means of self-support shall be exempt.
- (D) Real property used in whole or in part as a business or as a means of support shall be exempt.
- (E) A person who owns equipment, inventory, licenses, and materials for self-support shall not be required to be personally involved in the business in order for the property to be exempt under (A).
- (F) The net market value of nonexempt business equipment, inventory, licenses, or material shall be the amount listed on the Statement of Facts, unless the county department determines that the property may be evaluated under another section in this article, or that further verification is required. If further verification is required:
  - (1) The owner shall provide a copy of the current or prior year's Federal tax return's depreciation forms.
    - (a) The county shall use the values indicated on the depreciation forms to establish the market value.
    - (b) The county shall subtract encumbrances of record from the market values established to determine the net market value.
  - (2) If the Internal Revenue Service (IRS) forms are not available and if the sections between Section 7-051 and 7-061 can be applied as a method valuing the specific items of property may be evaluated using any of the other sections in this article, those sections shall be used.

- (3) If the IRS forms are not available, the other sections in this article do not apply, and the county determines that further verification is required:
  - (a) The owner shall submit an appraisal from an appropriate dealer, insurance adjuster, or personal property appraiser. The value listed on the appraisal shall be the market value.
  - (b) The county shall subtract any encumbrances of record from the market value to determine the net market value.
- (G) Stocks, bonds, and other similar items of personal property shall not be considered property necessary for employment or self-support even in those instances where the owner holds stock in the corporation in which the owner is employed. Such stocks, bonds, or other similar financial holdings shall be included in the property reserve.

### 7-060. Stocks Held by Natives of Alaska

Shares of stock in a regional or village corporation held by Natives of Alaska for a 20-year period during which such stock cannot be conveyed, transferred, or surrendered, shall be exempt.

### 7-061. Property Held in Trust

- (A) Real or personal property held in trust for the applicant or beneficiary shall be exempt if the applicant or beneficiary is unable to obtain access to the principal of the trust. To determine whether the trust is available, the applicant or beneficiary shall take whichever of the following actions is appropriate within 30 days of being advised by the county department of the requirement to do so:
  - (1) Request the trustee to release the funds.
  - (2) Request that the trustee petition the court for the release of funds.
  - (3) Petition the court directly if the trustee refuses to take action specified in (1) or (2).

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- (B) The trust shall be exempt pending completion of the actions specified in (1) through (3).
- (C) The trust shall be included in the property reserve or considered as other real property, under either of the following conditions:
  - (1) The applicant or beneficiary refuses to initiate the action specified in (2).
  - (2) The court determines that the trust is available to the applicant or beneficiary.
- (D) The provisions of this Section shall not apply if the trust agreement clearly specifies that the applicant or beneficiary is the income-beneficiary only and has no ownership interest in the corpus of the trust.

### 7-062. Pension Funds, IRA's, and Other Retirement Accounts

Pension funds, IRA's, and any other retirement account which the applicant or beneficiary has access to shall be included in the property reserve. Any penalties which may be applied for early withdrawal shall be deducted from the account balance in determining the amount to be applied to the property reserve. Pension funds, IRA's, or other retirement accounts that are already in pay status will be counted as income.

### 7-063. CalWORKs Restricted Accounts

CalWORKs restricted accounts, up to \$5,000 for the purchase of a home, to start a business, or to apply toward future education or employment, will be exempt from inclusion in the CMSP property reserve if all of the following conditions are met:

- (A) The account was established by the individual while on CalWORKs.
- (B) The account is maintained in a financial institution and is not commingled with other funds.
- (C) At least one individual in the home is still receiving CalWORKs benefits.
- (D) The account cannot be established by an applicant or beneficiary of Medi-Cal or CMSP only.

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### **Article 8. Income**

- 8-010. Income--General
- 8-011. Gross Earned Income
- 8-012. Net Profit From Self-Employment
- 8-013. Gross Unearned Income
- 8-014. Net Income From Property
- 8-015. Income In-Kind
- 8-016. Value of In-Kind Income
- 8-017. Availability of Income
- 8-018. Unavailable Income
- 8-019. Apportionment of Income Over Time
- 8-020. Apportionment of Income Exemptions and Deductions
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- 8-028. Assistance Based on Need
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- 8-037. Job Training Partnership Act (JTPA) Payments
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- 8-047. Deductions From Earned Income
- 8-048. Deductions for Work Expenses
- 8-049. Deductions for Dependent Care
- 8-050. Court Ordered Alimony or Child Support
- 8-051. Child or Spousal Support Received by CMSP Family Members
- 8-052. Deductions From Any Income
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- 8-054. Income of Persons Who Choose to be Excluded from the CFBU
- 8-055. Treatment of Income--Persons No Longer Receiving Title XVI Due to Cost of Living Increases in OASDI Under Title II, (Pickle Eligibles)
- 8-056. Treatment of Income--Sneede v. Kizer
- 8-057. Health Insurance Premiums

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### **Article 8. Income**

#### **8-010. Income--General**

Income includes benefits in cash or in-kind from labor services provided, business activities, returns from real or personal property, contributions, retirement/pension payments, or other similar sources. Such income shall be considered as income only if it is currently available in accordance with Sections 8-017 through 8-019. Income from these sources shall be divided into three types:

- (A) Gross earned income as described in Section 8-011.
- (B) Gross unearned income as described in Section 8-013.
- (C) Income in-kind as described in Section 8-015.

#### **8-011. Gross Earned Income**

Gross earned income includes:

- (A) Wages, including amounts designated for meals provided by an employer or business enterprise, salaries, bonuses, and commissions from an employer or business enterprise.
- (B) Temporary Workers Compensation (TWC) and State Disability Insurance (SDI) payments.
- (C) Net profits from self-employment as determined in accordance with Section 8-012.
- (D) Earnings under Title 1 of the Elementary and Secondary Education Act.
- (E) Payments under the Job Training Partnership Act (JTPA). Payments identified by the local JTPA office as incentive payments or training allowances shall be considered as gross unearned income.
- (F) Payments under the Economic Opportunity Act.
- (G) Training incentive payments and work allowances under ongoing manpower programs other than Welfare-To-Work or JTPA.

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- (H) Income received for having provided IHSS services.
- (I) Net income from real or personal property as determined in accordance with Section 8-014 which is the result of continuous and appreciable effort on the part of the applicant or beneficiary. This includes income from:
  - (1) Room and board.
  - (2) The rental of rooms which requires daily effort on the part of the applicant or beneficiary.
  - (3) A business enterprise.
  - (4) The sale of produce, livestock, poultry, dairy products, and other similar items.
- (J) Earnings from public service employment.
- (K) Actual Earned Income Tax Credit (EITC) payment received for a taxable year and received as a tax refund or as an advance payment.
- (L) Tips actually received for the performance of work activities, notwithstanding the amount calculated by the employer for tax withholding purposes.

### 8-012. Net Profit from Self-Employment

CMSP's policy for determining net profit from self-employment, Section 8-012 of the CMSP Eligibility Manual, will be as follows:

- (A) The net profit from self-employment shall be an estimation of the annual net income for the current year, based on the federal tax return filed for the previous year as limited by (C).
- (B) If there is no tax return for the previous year, or there is evidence that using the tax return would give an inaccurate estimation of income, the county department shall use current business records. In this circumstance, net profit shall be determined in accordance with (D) and (E).

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- (C) The following expenses, when used to determine annual net income on the federal tax return, shall not be deducted:
  - (1) Entertainment costs.
  - (2) Depreciation.
  - (3) Purchase of capital equipment expenditures.
  - (4) Payments on the principal of loans for capital assets or durable goods.
- (D) Net profit of a self-employed person shall be determined by subtracting from the gross business income expenses which are directly related to the production of goods or services and without which the goods or services could not be produced. Such expenses include, but are not limited to:
  - (1) Transportation costs to call upon customers or deliver goods.
  - (2) Payments of the interest of loans for capital assets or durable goods.
  - (3) Payments for rental of space or equipment.
  - (4) Wages and other benefits paid to employees.
  - (5) Material and supply costs.
  - (6) Maintenance and repair costs.
- (E) Personal expenses such as income tax payments, lunches, and transportation to and from work are not classified as business expenses and shall not be deducted.

### 8-013 Gross Unearned Income

Gross unearned income includes:

- (A) Old Age, Survivors, and Disability Insurance (OASDI) payments from the SSA.
- (B) Annuities, which are sums paid yearly or at other specific intervals in return for payments of a fixed sum by the annuitant.
- (C) Pensions.
- (D) Retirement payments.
- (E) Disability payments from an employer or insurance except for State Disability Insurance benefits considered to be earned income under Section 8-011.
- (F) Veteran's payments which include:
  - (1) Pensions based on need.
  - (2) Compensation payments.
  - (3) Educational assistance.
- (G) Workers' compensation, except for any amount determined to be unavailable in accordance with Section 8-018 or for temporary workers' compensation payments considered to be earned income under Section 8-011.
- (H) Railroad retirement or any other payments made by the Railroad Retirement Board.
- (I) Unemployment Insurance Benefits.
- (J) Proceeds from a life insurance policy which are in excess of the lesser of:
  - (1) \$1,500.

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- (2) The amount expended on the insured person's last illness and burial expenses.
- (K) Other insurance payments.
- (L) Loans which do not require repayment.
- (M) Gifts.
- (N) Nonexempt child support, whether provided voluntarily or by court order.
- (O) Alimony payments.
- (P) Inheritances which are in the form of cash, securities, or other liquid assets.
- (Q) Contributions from any source.
- (R) Prizes and awards.
- (S) Net income from the rental, real, or personal property which is not considered gross earned income in accordance with Section 8-011.
- (T) Dividends.
- (U) Interest payments from any source, including trusts, trust deeds, and contracts of sale.
- (V) Royalties including, but not limited to, payments to a holder of a patent or copyright for the use of the invention, or to the owner of a mine, oil well, or similar holdings for the extraction of the product or other use.
- (W) Income from a PA or Other PA recipient which is not used to determine the recipient's eligibility.
- (X) Incentive payments or training allowances under JTPA.
- (Y) Any other income which is available to meet current needs in accordance with Section 8-017.

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- (Z) Any of the items specified in (J) through (Y) if received as a lump sum payment.

### 8-014. Net Income From Property

Net income from property shall be considered in determining share of cost.

- (A) Net income from property shall be computed as follows:
  - (1) If the income is from the rental of other real property, subtract the following expenses from the gross income:
    - (a) Taxes and assessments.
    - (b) Interest on encumbrance payments. The principal portion of the payment shall not be deducted.
    - (c) Insurance.
    - (d) Utilities.
    - (e) Upkeep and repairs. The amount of this item shall be the greater of the following:
      - (i) The actual amount expended for upkeep and repairs during the month.
      - (ii) Fifteen percent of the gross monthly rental, plus \$4.17 per month.
  - (2) In determining whether utilization requirements are met in accordance with Section 7-025 (A)(1), only the amount specified in (A) (1) (e) (i) shall be deducted rather than the amount specified in (A) (1) (e) (ii).
  - (3) If the income is from the rental of rooms, the provision of board and room or board and care which does not require a business license, the net income shall be ten percent of the gross amount received.

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- (4) If the income is from the provision of board and room, board and care which requires a business license, or from self-employment, the net income is the net profit from self-employment as determined in accordance with Section 8-012.
  - (5) If the income is from a deed of trust or a mortgage, the net income is the amount specified in Section 7-036 (C).
  - (6) If the income is from property in which the person holds a life estate, the net income is the amount actually received.
  - (7) If the income is from personal property, the net income is the amount actually received.
- (B) If the income is from the rental of unit(s) of a multiple unit dwelling or other dwellings on property that is exempt as the principal residence, and the applicant or beneficiary is living in a portion of the property, the expenses specified in (A) which are common to the property as a whole shall be prorated as follows:
  - (1) Determine the number of rooms in the building. If there is more than one building, determine the number of rooms in all of the buildings together. For the purpose of this Section, rooms include any room other than the following:
    - (a) Bathrooms.
    - (b) Hallway.
    - (c) Closet.
    - (d) Unfinished basement, loft, or attic.
  - (2) Determine the number of rooms which are producing the rental income.
  - (3) Based upon the number of rooms, determine the percentage of the property which is producing the rental income.

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- (4) Apply the percentage determined in accordance with (3) to the expenses specified in (A) which are common to the property as a whole. This is the amount which shall be subtracted from the gross income.

### 8-015. Income In-Kind

Income in-kind is any support or maintenance received in-kind from a person, other than a responsible relative, for housing, utilities, food, or clothing.

- (A) Income in-kind shall be considered as income only if the entire item of need is provided.
- (B) The value of free board and lodging received during a temporary absence from the home shall be considered as follows:
  - (1) If the absence is for one month or less, the income in-kind shall not be considered income.
  - (2) If the absence is for more than one month, the income in-kind value shall be considered income to the extent that it exceeds the actual cost of maintaining the home to which the beneficiary will return.
- (C) Income in-kind which is received as earned income shall be subject to earned income exemptions and deductions.
- (D) Income in-kind which is received as unearned income shall be subject to unearned exemptions and deductions.

### 8-016. Value of In-Kind Income

- (A) The value of the income in-kind for the items specified in Section 8-015 shall be the actual cost, the net market value of the item, or the following amounts, whichever is less:

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In-Kind Values Chart

CFBU Size	HOUSING Value	UTILITIES Value	FOOD Value	CLOTHING Value
1 Person	\$153	\$33	\$86	\$27
2 Persons	\$206	\$38	\$182	\$49
3 Persons	\$225	\$40	\$232	\$75
4 Persons	\$236	\$41	\$286	\$100
5 Persons	" "	" "	\$346	\$126
6 Persons	" "	" "	\$401	\$149
7 Persons	" "	" "	\$447	\$178
8 Persons	" "	" "	\$490	\$199
9 Persons	" "	" "	\$537	\$227
10 Persons +	" "	" "	\$582	\$249

(B) If one of the items listed in 8-015 is shared with persons who are not included in the CFBU and who are not responsible for members of the CFBU, the income in-kind value to the members of the CFBU shall be the lesser of:

- (1) Their share of the net market value or actual cost of the item.
- (2) The value listed in the "In-Kind Values Chart" above.

### 8-017. Availability of Income

Only income which is actually available to meet the needs of a person or family shall be considered in determining that person's or family's share of cost.

- (A) Income shall be considered available in the month it is received, unless it is:
- (1) Unavailable in accordance with Section 8-018.

- (2) To be apportioned over time in accordance with Section 8-019.
- (B) Income is considered to be received on the day it becomes available for use.
- (C) Income is considered to belong to the person who is:
  - (1) Named on the negotiable instrument.
  - (2) Who is given cash.
  - (3) Who receives the income in-kind.

**8-018. Unavailable Income**

Income which is not available to meet current needs of a person or family shall not be considered in determining the person's or family's share of cost.

- (A) Unavailable income includes, but is not limited to, the following:
  - (1) That portion of workers' compensation and other public or private insurance settlements which is either of the following:
    - (a) Designated for medical, legal, or other such expenses.
    - (b) Not controlled by the applicant or beneficiary or person acting on his behalf.
  - (2) That portion of a contribution that is both of the following:
    - (a) From a person living in the household for which the household has no legal responsibility to support, such as an unrelated adult or an adult child.
    - (b) Used to meet the actual costs of the contributor's share of the housing, utilities, food, and other household costs. If the actual costs are unknown or unavailable, the amount specified in Section 8-016 shall be used. This shall be the difference between the income-in-kind values for the family size with the person included and excluded.

- (3) An advance or reimbursement from an employer to cover expenses necessary for job performance is unavailable to the extent that the advance or reimbursement does not exceed the actual out-of-pocket costs of the employee.

### 8-019. Apportionment of Income Over Time

Income shall be considered available in the month received, unless it is apportioned over time in accordance with the following:

- (A) Income earned and received, in more than eight but less than 12 months, under an annual contract of employment shall be apportioned equally over the period of the contract beginning with the first month of the contract.
- (B) Income received more frequently than monthly or semi-monthly shall be converted to monthly income in accordance with (C) if both of the following conditions are met:
  - (1) The beneficiary wishes to receive CMSP for more than two months.
  - (2) The beneficiary is to receive the income for a full month.
- (C) Income shall be converted to monthly income by the following methods:
  - (1) Multiply weekly income by 4.33 or  $4 \frac{1}{3}$ .
  - (2) Multiply income received every two weeks by 2.167 or  $2 \frac{1}{6}$ .
- (D) Income received less frequently than monthly shall be converted to monthly income by the following methods for CFBUs with a one-month share of cost pursuant to Section 10-012 (B).
  - (1) Divide quarterly income by three.
  - (2) Divide income received every two months by two.
- (E) Income from self-employment, as determined in accordance with Section 8-012, shall be determined on an annual basis and apportioned monthly.

- (F) Loans which do not require repayment, are not exempt in accordance with Section 8-032, and which specify that they are to cover a certain period of time, shall be apportioned over that period of time.
- (G) Interest income from a deed of trust or contract of sale shall be determined on an annual basis and apportioned monthly.
- (H) Interest income which is received less frequently than monthly and is not exempt as specified in Section 8-040, shall be apportioned as follows:
  - (1) Determine the number of months of the period during which the interest accrued.
  - (2) Divide the interest income by the number of months in the interest period.
  - (3) Consider the amount determined in (2) as income in each of the months of the next interest period.

### 8-020. Apportionment of Income Exemptions and Deductions

Income exemptions and deductions shall be apportioned over time using the procedures set forth in Section 8-019.

### 8-021. Fluctuating Income

Fluctuating income shall be determined by estimating the amount to be received in the month, unless the conditions of (B) are met.

- (A) This estimate shall be made considering all of the following:
  - (1) The income pattern over the last year.
  - (2) The actual income received in the last month.
  - (3) The beneficiary's statement of anticipated income.

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- (B) Actual income shall be used if it is known at the time the share-of-cost determination is being made. In no instance shall the share-of-cost determination be delayed solely to determine the actual income.
- (C) The provisions of this section shall not apply to income from self-employment which shall be determined in accordance with Section 8-012 or apportioned in accordance with Section 8-019 (E).

### 8-022. Income Exemptions and Deductions--General

Certain items of earned and unearned income shall be exempt from consideration in determining a beneficiary's share-of-cost.

- (A) Income which remains after the application of the exemptions specified in Sections 8-024 through 8-043 shall be nonexempt income.
- (B) Certain amounts of income shall be deducted from nonexempt income to determine the net income to be used in determining the share of cost. Income which remains after the application of the deductions specified in Sections 8-045 through 8-055 shall be net nonexempt income.
- (C) Exemptions and deductions do not apply uniformly to both earned and unearned income. Restrictions are stated where applicable.

### 8-023. Payments Exempt From Consideration as Income

Income specified in Sections 8-024 through 8-043 shall be exempt. These exemptions apply to all persons, unless otherwise specified.

### 8-024. Property Tax Refunds

Refunds or rebates of taxes on real property shall be exempt.

### 8-025. Public Assistance and General Relief Grants

Public assistance cash grants, county General Relief or General Assistance payments, and the cash value of food stamps shall be exempt.

### 8-026. Welfare-To-Work Program

Earnings from public service employment under the Welfare-To-Work program component of CalWORKS are exempt.

### 8-027. Social Services

Payments received for social services provided in accordance with Title XX of the Social Security Act shall be exempt, whether provided in-kind or as a direct payment to the individual for purchase of designated services. Such services include, but are not limited to:

- (A) In-Home Supportive Services (IHSS).
- (B) Child care.
- (C) Training and rehabilitation services, including payment for training expenses.

### 8-028. Assistance Based on Need

Assistance based on need shall be evaluated as follows:

- (A) Assistance based on need includes payments from the following and similar sources:
  - (1) Short-Doyle.
  - (2) Regional Centers for the Developmentally Disabled.
  - (3) Probation Departments.
- (B) Payment made pursuant to public law, when the law specifically exempts such payments from eligibility and share-of-cost determinations, shall be considered assistance based on need.
- (C) Assistance based on need which is furnished by the State or any political jurisdiction, thereof, as specified in (A), shall be exempt if the payment is all of the following:

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- (1) Made regularly on a periodic basis, at least once a quarter, or made to a specific group or class of individuals in similar circumstances or situations.
- (2) Made in cash, which may be currency or any negotiable instrument.
- (3) Issued in an amount based on the need of the individual.

### 8-029. Federal Housing Assistance

Federal housing assistance in the form of rent subsidies, loans, or partial house payments under the U.S. Housing Act of 1937, the National Housing Act, Title V of the Housing Act of 1949, or the Housing and Urban Development Act of 1965 shall be exempt.

### 8-030. Training Expenses

The allowance for training expenses paid by the Department of Rehabilitation to persons participating in that Department's training programs shall be exempt.

### 8-031. Foster Care Payments

Payments from any source, received by a foster parent for the care of a foster child, shall be exempt except for:

- (A) The portion of the payment designated by the county department for care and supervision, if such a designation is made.
- (B) Payments made to a foster parent when a foster child is temporarily absent from the foster home for a month or more.
- (C) Payments made to ensure availability of a room or rooms for foster children.

### 8-032. Exempt Loans, Grants, Scholarships, and Fellowships

The following loans, grants, scholarships, and fellowships are exempt:

- (A) Loans made under Title III of the Federal Economic Opportunity Act, Special Program to Combat Poverty in Rural Areas.

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- (B) Loans or grants to an undergraduate student for educational purposes made or insured by the Federal Commissioner of Education. These include, but are not limited to:
  - (1) Supplemental Education Opportunity grants.
  - (2) National Direct Student loans.
  - (3) College Work Study.
  - (4) Basic Educational Opportunity grants.
  - (5) Federal insured student loans.
- (C) Educational loans or grants to undergraduate students when it is verified that they are awarded on the basis of the student's need. These include, but are not limited to:
  - (1) Extended Opportunity Program loans and grants.
  - (2) Bureau of Indian Affairs loans and grants.
  - (3) California State scholarships (Cal Grant A).
  - (4) College Opportunity grants (Cal Grant B).
  - (5) Occupational, Educational-Training grants (Cal Grant C).
- (D) Funds for readers, or educational scholarships, which are all of the following:
  - (1) Provided to an aged, blind, or disabled person enrolled in a California public school or institution of higher learning.
  - (2) Awarded by an educational institution.
  - (3) Not available to meet basic needs.
- (C) Other loans, grants, scholarships, or fellowships, or portions thereof, to undergraduate or graduate students if the following conditions are met:

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- (1) The loan, grant, scholarship, or fellowship document specifically limits the use of the funds for purposes other than current living costs.
- (2) The loan, grant, scholarship, or fellowship would not be available if used for any purpose other than the one specified.

### 8-033. Payments Made to Victims of Crime

Payments made under the California Victim of Crimes program shall be exempt.

### 8-034. Relocation Assistance Benefits

Relocation assistance benefits shall be exempt if paid by a public agency to a person who has been relocated as a result of a program of area redevelopment, urban renewal, freeway construction, or any other public development involving demolition or condemnation of existing housing.

### 8-035. Federal Payments to Indians and Alaskan Natives--Income

Federal payments to Indians and Alaskan Natives shall be evaluated as follows:

- (A) Payments made to Indians under Public Law 90-507 shall be considered personal property rather than income to the extent specified in Section 7-039.
- (B) Per capita payments made to Indians under Section 6 of Public Law 87-775 and Public Law 92-254 shall be exempt.
- (C) Per capita payments distributed pursuant to any judgement of the Indian Claims Commission or the Court of Claims in favor of any Indian Tribe are exempt.
- (D) Payments made to Alaskan Natives under the Alaskan Native Claims Settlement Act are exempt. Income obtained from stock investments under the Act is not exempt.
- (E) Receipts derived from lands held in trust and distributed by the federal government to members of the following Indian tribes are exempt:

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- (1) Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.
- (2) Blackfoot Tribe, Blackfoot, Montana.
- (3) Cherokee Nation of Oklahoma, Oklahoma.
- (4) Cheyenne River Sioux Tribe, Cheyenne River, South Dakota.
- (5) Crow Creek Sioux Tribe, Crow Creek, South Dakota.
- (6) Lower Brule Sioux Tribe, Lower Brule, South Dakota.
- (7) Devil's Lake Sioux Tribe, Fort Totten, North Dakota.
- (8) Fort Belknap Indian Community, Fort Belknap, Montana.
- (9) Assiniboine and Sioux Tribes, Fort Peck, Montana.
- (10) Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac Courte and Oreilles, Wisconsin.
- (11) Keweenaw Bay Indian Community, L'Anse, Michigan.
- (12) Minnesota Chippewa Tribe, White Earth, Minnesota.
- (13) Navajo Tribe, Navajo, New Mexico.
- (14) Oglala Sioux Tribe, Pine Ridge, South Dakota.
- (15) Rosebud Sioux Tribe, Rosebud, South Dakota.
- (16) Shoshone-Bannock Tribe, Fort Hall, Idaho.
- (17) Standing Rock Sioux Tribe, Standing Rock, North and South Dakota.
- (18) Seminole Indians, Florida.
- (19) Pueblos of Zia and Jemez, New Mexico.

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(20) Stockbridge Munsee Indian Community, Wisconsin.

(21) Burns Indian Colony, Oregon.

### 8-036. VISTA Payments

Payments made under the Domestic Volunteer Services Act of 1973 to VISTA volunteers are exempt.

### 8-037. Job Training Partnership Act Payments

Job Training Partnership Act (JTPA) payments shall be evaluated as follows:

- (A) All of a child's earnings which are derived from participation in JTPA programs shall be exempt for up to six months per calendar year. Other JTPA payments made to a child shall be exempt at all times.
- (B) Other than earnings, payments to an adult that are derived from participation in JTPA programs shall be exempt to the extent that the payment reimbursements do not exceed the adult's actual training expenses.

### 8-038. Executive Volunteer Programs

Payments for supportive services or reimbursement of out-of-pocket expenses made to persons serving in the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE), pursuant to Section 418 of Public Law 93-113, are exempt.

### 8-039. Senior Citizen Volunteer Programs

Compensation received by beneficiaries, who are 60 years of age or older, for volunteer services performed under the Retired Senior Volunteer program, the Foster Grandparents program, or the Older Americans Community Service program of the National Older Americans Act, shall be exempt.

### 8-040. Irregular or Infrequent Income

Irregular or infrequent income shall be evaluated as follows:

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- (A) The first \$60 of casual or inconsequential unearned income per calendar quarter shall be exempt if either of the following conditions are met:
  - (1) The income is received not more than twice per quarter.
  - (2) The income cannot be reasonably anticipated.
- (B) Earned income not exceeding \$30 per calendar quarters shall be exempt if either of the following conditions is met:
  - (1) The income is received not more than twice per quarter.
  - (2) The income cannot be reasonably anticipated.

### 8-041. Student Exemptions

The income of students shall be evaluated as follows:

- (A) All earned income of a child, including earnings from JTPA after the six month's exemption pursuant to Section 8-037 has expired, shall be exempt if the child is either of the following:
  - (1) A full-time student.
  - (2) A part-time student with a school schedule that is equal to at least one-half of a full-time curriculum, and the child is not employed full-time.
- (B) For purposes of this exemption, the following definitions apply:
  - (1) School attendance means enrollment and attendance in a school, college, university, or in a course or vocational or technical training designed to fit the child for gainful employment and includes participation in the Job Corps program under the Economic Opportunity Act.
  - (2) Full-time student means a student who has a school schedule equal to a full-time curriculum, as defined by the school attended.

- (3) Part-time employment means employment for less than 173 hours per month.
- (C) The student exemption shall also apply to full or part-time earnings between school terms or during vacation periods, if the child plans to continue school attendance during the next term when the vacation period ends.

### 8-042. Earned Income Tax Credit

The actual Earned Income Tax Credit (EITC) payment received by a CMSP person shall be exempt as income whether received as a tax refund or an advance payment.

### 8-043. Earnings of a Child Under Age 14

Earnings of a child under 14 years of age shall be exempt.

### 8-044. Deductions From Income

The deductions specified in Sections 8-045 through 8-056 shall be deducted from nonexempt income in the sequence presented in these regulations to determine net nonexempt income.

### 8-045. Educational Expenses

Documented educational expenses for college or similar training courses which are incurred by an applicant or beneficiary shall be deducted either from any income received for educational purposes, as defined in (B), or any loan received for educational purposes which is considered as property in accordance with Section 7-058(B).

- (A) Such educational expenses shall be apportioned over the period of time they are intended to cover to determine the monthly deduction. Documented expenses incurred by the applicant or beneficiary include any of the following items or services necessary for school attendance:
  - (1) Tuition.
  - (2) Books.
  - (3) Fees.

## CMSP ELIGIBILITY MANUAL

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- (4) Equipment and supplies.
  - (5) Special clothing needs.
  - (6) Child care services.
  - (7) Costs of transportation to and from school based on the mode most economically available and feasible in the particular circumstances. If it is determined that personal care usage meets this criteria, all actual transportation costs will be prorated based on the percentages of miles driven to and from school to total miles driven each month. Allowable transportation costs include, but are not limited to, car payments, car insurance and registration fees, gasoline, and bus pass fees.
- (B) Income for educational purposes includes, but is not limited to:
- (1) Exempt student loans, grants, or fellowships, as identified in Section 8-032.
  - (2) Nonexempt student loans, grants, or fellowships that do not require repayment.
  - (3) Social Security and Veteran's Administration payments made to a child attending school and that are based on a deceased or disabled parent's entitlement.
  - (4) Veteran's Educational Assistance Program payments (GI Bill).
- (C) The beneficiary's educational expenses shall first be deducted from the totally exempt loans or grants identified in Section 8-032. Any remaining educational expenses shall next be deducted from other loans for educational purposes that are considered property in accordance with Section 7-058 (B) and, finally, from other income received for educational purposes.

### 8-046. Support Payments From an Absent Parent

One-third of any payment made by an absent parent for the support of a disabled or blind child shall be deducted from the total payment received.

### 8-047. Deductions From Earned Income

The deductions specified in Sections 8-048 through 8-050 shall be subtracted in the sequence presented from the nonexempt gross earned income of each person or persons who are eligible members of the CFBU.

### 8-048. Deduction for Work Expenses

Ninety dollars (\$90) for mandatory deductions and work-related expenses shall be deducted from the earned income of each person.

### 8-049. Deduction for Dependent Care

A deduction for dependent care shall be allowed as follows:

- (A) The amount as determined in accordance with (B) shall be deducted from the income remaining after the \$90 deduction for work expenses has been subtracted from the income of each employed person when both of the following conditions exist:
  - (1) The person has reasonable and necessary costs of obtaining child care for a child in the CFBU or care for an incapacitated person in the CFBU.
  - (2) The county department determined that adequate dependent care cannot be provided by another member of the CFBU.
- (B) The amount deducted in accordance with (A) shall be the actual amount paid as limited by the following:
  - (1) A maximum of \$200 per child under two years of age.
  - (2) A maximum of \$175 per child two years of age or older.

- (3) A maximum of \$175 per incapacitated person.
- (C) This deduction shall also apply when the care is provided by a member of the CFBU, other than a spouse or parent, who terminated employment specifically to provide the necessary care.

### 8-050. Court Ordered Alimony or Child Support

Court ordered alimony or child support, or child support paid pursuant to an agreement with a district attorney, shall be deducted from the income of a CMSP applicant or beneficiary when it is actually paid by that applicant or beneficiary. The amount deducted shall be the lesser of the amount:

- (A) Actually paid.
- (B) Specified in the court order or agreement with a district attorney.

### 8-051. Child or Spousal Support Received by CMSP Family Members

Child or spousal support payments received shall be evaluated as follows:

- (A) Fifty dollars per month shall be deducted from the child or spousal support received by CMSP family members, whether provided voluntarily or by court order, when received and due in the current month.
- (B) Fifty dollars for each month shall be deducted from child support received by CMSP family members for past months, if both of the following conditions are met:
  - (1) The payments for past months are received by the family member in the current month.
  - (2) The payments were made by the absent parent in the month the payment was due as defined in (C).

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- (C) Past month child support payments considered to meet the conditions described in (B)(2) shall be limited solely to cases where the absent parent makes payment as described and required in the court order, agreement with the district attorney, or voluntary payment schedule and one of the following conditions is met:
- (1) The agreement or court order specifies a payment schedule which requires annual, semiannual, quarterly, or other multiple month payments for reasons other than payment of past due amounts.
  - (2) Payment is made, but not received, due to administrative processing problems beyond the control of both the absent parent and the CMSP person until a subsequent month. Such processing problems include, but are not limited to:
    - (a) Timely payment is made to the district attorney or court and not passed on to the CMSP person until a subsequent month.
    - (b) Payment for each month is made through payroll deduction or garnishment of wages and is not forwarded to the CMSP person until a subsequent month.

### 8-052. Deductions From Any Income

The deductions specified in Sections 8-053 through 8-054 shall be subtracted from any nonexempt income that remains after the application of all preceding exemptions and deductions

### 8-053. Income Used to Determine Public Assistance Eligibility of Another Family Member

Any income of persons ineligible or excluded from the CMSP Family Budget Unit (CFBU) as a Public Assistance (PA) recipient which was used to determine their PA, Other PA, or Medi-Cal eligibility, is not to be considered when determining the countable income of the CFBU. The following income shall be considered in determining the share-of-cost of a person or family:

- (A) Net income of all persons included in the CFBU in accordance with Sections 6-011 through 6-014.

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- (B) Income specified in Sections 8-055 and 8-056.

### 8-054 Income of Persons Who Choose to Be Excluded From the CFBU

The income of children excluded from the CFBU shall not be counted in determining the share-of-cost for the CFBU. In addition to their own income, children excluded from the CFBU shall be allocated an amount to meet their combined need, which shall be determined as follows:

- (A) Determine the maintenance need for the CFBU with the children included.
- (B) Determine the maintenance need for the CFBU with the children excluded.
- (C) Subtract the amount determined in (B) from the amount determined in (A).
- (D) Subtract the net nonexempt income of all excluded children from the amount determined in (C). This is the amount that shall be allocated to the children excluded from the CFBU.

### 8-055. Treatment of Income--Persons No Longer Receiving Title XVI Due to Cost of Living Increases in OASDI Benefits Under Title II, (Pickle Eligibles)

The income deemed from the Title II Disregard person (Pickle Eligible) shall be considered when determining the share-of-cost for the CFBU.

### 8-056. Treatment of Income--Sneede v. Kizer

The county department shall consider the results of a Medi-Cal eligibility determination made pursuant to the Sneede v. Kizer lawsuit for any CMSP applicant/beneficiary who was included in the Medi-Cal determination.

- (A) All income attributed to a CMSP applicant/beneficiary from a Sneede v. Kizer calculation shall be considered countable income.
- (B) The countable income shall be compared with the appropriate maintenance need level shown in Section 9-012 to determine the share-of-cost obligation, if any.

### 8-057. Health Insurance Premiums

Health insurance premiums shall be deducted from all income if paid by and purchased for any person, living in or out of the home, whether or not in the CFBU or MFBU. Such a deduction shall be applied if the health insurance premium is paid voluntarily or as part of a Medical Support order.

- (A) Health insurance payments paid less often than monthly shall be averaged on a monthly basis.
- (B) The premium for Part B Medicare shall be deducted for those months in which the family member actually makes the payment.

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### **Article 9. Maintenance Need**

- 9-010. Maintenance Need--General
- 9-011. Maintenance Need--Persons Living in the Home
- 9-012. Maintenance Need Levels

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### Article 9. Maintenance Need

#### 9-010. Maintenance Need--General

The amount of income a person or family is allowed to retain for living expenses shall be the maintenance need for the members of the CFBU living in the home as determined in accordance with Section 9-011.

#### 9-011. Maintenance Need--Persons Living in the Home

The maintenance need for members of the CFBU living in the home shall be determined by the number of persons, both ineligible and eligible, in the CFBU. Excluded persons shall not be included in the CFBU for the determination of the maintenance need. The maintenance need levels for the appropriate CFBU size is illustrated in Section 9-012.

#### 9-012. Maintenance Need Levels

The maintenance needs appropriate for the size of the CMSP Family Budget Unit shall be as follows:

CFBU SIZE	MAINTENANCE NEED
1 person in all situations	\$ 600
2 persons	\$ 750
2 adults	\$ 934
3 persons	\$ 934
4 persons	\$1,100
5 persons	\$1,259
6 persons	\$1,417
7 persons	\$1,550
8 persons	\$1,692
9 persons	\$1,825
10 persons	\$1,959

Add \$14 per each additional person.

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### **Article 10. Share of Cost**

- 10-010. Share of Cost--General
- 10-011. Share of Cost Period
- 10-012. Determination of Share of Cost
- 10-013. Reducing Share of Cost With Hunt v. Kizer Provisions
- 10-014. Changes Which Decrease the Share of Cost Determination
- 10-015. Changes Which Increase the Share of Cost Determination
- 10-016. Changes in Share of Cost Determination Due to Administrative Error

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### Article 10. Share of Cost

#### 10-010. Share of Cost--General

Share of cost shall be determined and processed in accordance with the requirements of this article.

#### 10-011. Share of Cost Period

The share of cost for a CFBU shall cover a one month period in accordance with Section 11-010 (A).

#### 10-012. Determination of Share of Cost

The share of cost shall be determined at the time of application, reapplication, or when there is a change in circumstances to the CFBU which results in changes to the income, family composition, or any other factor that affects the share of cost.

- (A) The share of cost for a person eligible for Medi-Cal under Aid Code 53, as determined in Section 3-016, shall be zero for CMSP benefits for the month or months that CMSP eligibility is also established.
- (B) The share of cost for all other CMSP CFBUs shall be determined as follows:
  - (1) Determine the net nonexempt income available to the CFBU during the month.
  - (2) Round the total net nonexempt income for the month determined in (1) to the nearest dollar, with amounts ending in 50 cents or more rounded to the next higher dollar.
  - (3) Determine the appropriate maintenance need for the CFBU for the month in accordance with Section 9-011.
  - (4) Subtract the maintenance need from the total rounded net nonexempt income for the month. The remainder, if any, is the share of cost.

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- (C) For CFBU's which include ineligible members who are also eligible members of an MFBU:
  - (1) The share of cost of the MFBU will not be the same as the share of cost of the CFBU, due to the differences in the maintenance need.
  - (2) Eligible members of the MFBU shall be ineligible members of the CFBU except if the eligible member is a stepchild in his/her own case, the share of cost of the MFBU must be determined separately.
- (D) For a CFBU, which includes a CMSP applicant/beneficiary who was included in a Medi-Cal eligibility determination made pursuant to the *Sneede v. Kizer* lawsuit:
  - (1) Use all income attributed to the CMSP applicant/beneficiary from the Sneede v. Kizer calculation.
  - (2) Determine the appropriate maintenance need level as shown in Section 9-012.
  - (3) Subtract the maintenance need from the Sneede v. Kizer income of the applicant/beneficiary. The remainder, if any, is the share of cost.

### 10-013. Reducing Share of Cost with Hunt v. Kizer Provisions

- (A) CMSP beneficiaries who have a share of cost may reduce that share of cost with the Hunt v. Kizer provisions as follows:
  - (1) A CMSP beneficiary may submit to the county department medical bills, obligations which are less than four years of age that the beneficiary has not yet paid prior to the month of submission.
    - (a) The bill must be issued by the provider or the provider's agents within 90 days of its submission to the county department.
    - (b) The unpaid bill must be an original bill or an acceptable substitute and include:

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- (i) Name, address, and a provider identification number, taxpayers identification number, or providers license number.
- (ii) Name of the person who received the medical service.
- (iii) A short description of the medical service received.
- (iv) The medical procedure codes for the services provided.
- (v) The date(s) that the medical service was provided.
- (vi) The issue date of the bill.
- (vii) Indicate the total amount owed by the individual, not amounts subject to third party collection.
- (c) The applicant/beneficiary may apply the old unpaid medical bill amounts towards a past month (if the bills were for services prior to the designated month).
- (d) Unless otherwise indicated, any old unpaid medical bills will be applied to the current month's (the month that the bill was submitted) share of cost. If any amount of the bill remains after reducing the current month's share of cost, the remainder will be applied to future share of cost amounts until the unpaid amount is exhausted.
- (e) The county should indicate to the individual that the unpaid medical bills are being used to reduce the share of cost and that the individual should use the money to pay the outstanding bills.

### 10-014. Changes Which Decrease the Share of Cost Determination

The county department shall evaluate changes in income or other circumstances which may decrease the share of cost determination.

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- (A) In situations where a change in income or other circumstances which results in a decrease in the share of cost is reported by the beneficiary in a timely manner, the county shall:
  - (1) Make the necessary changes in the ongoing share of cost by the first of the month following the month in which the change was reported.
  - (2) Determine what the share of cost should have been for the month in which the change occurred.
  - (3) Implement the beneficiary's choice of either of the following:
    - (a) Having an adjustment made in future share of cost months in accordance with (C) for the months in which income in excess of the correct share of cost was paid or obligated toward medical bills.
    - (b) Once the Share of Cost has been certified on the Medi-Cal Eligibility Data System (MEDS), the MEDS data cannot be changed. The county must issue a "Share of Cost CMSP Provider Letter" (CMSP 1054) and a notice of action to the beneficiary. The CMSP 1054 will instruct the provider to reimburse the beneficiary the excess amount paid and to bill the CMSP for the difference.
- (B) In situations where a change in income or other circumstances results in a decrease in the share of cost were not reported timely, as specified in Section 3-035, the county department shall:
  - (1) Make the necessary changes in the ongoing share of cost by the first of the month following the month in which the change was reported.
  - (2) Not make an adjustment for the current month or the month in which the change occurred unless the county department determines that there was good cause for failure to report in a timely manner. Good cause shall be determined in accordance with Section 3-030.

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- (C) When it is determined in accordance with (A) or (B) that there has been a decrease in the share of cost which is to be adjusted, and the adjustment shall be made as follows:
  - (1) The period of adjustment shall begin with the month the county department takes action in accordance with (A) or (B), and shall terminate when the total adjustment has been made.
  - (2) The amount of the adjustment is the difference between the original share of cost and the corrected share of cost.
  - (3) The amount of the adjustment or a portion of the adjustment equal to the share of cost shall be subtracted from the share of cost each month until the adjustment is completed.

### 10-015. Changes Which Increase the Share of Cost Determination

The county department shall evaluate changes in income or other circumstances which may increase the share of cost determination.

- (A) In situations where a change in income or other circumstances, which results in an increase in the share of cost, is reported in a timely manner, as specified in Section 3-035, the county department shall make the necessary changes effective:
  - (1) Immediately, if the increase is due to the voluntary inclusion of a family member who has income. The share of cost to be met shall be either of the following:
    - (a) The total increased share of cost shall be met by all members of the CFBU providing that the share of cost has not been cleared by a provider.
    - (b) The difference between the increased share of cost and the former share of cost shall be met by the newly included family member.

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- (B) In situations where a change in income or other circumstances, which results in an increase to the share of cost, is not reported timely, the county department shall:
  - (1) Make the changes to the ongoing share of cost in accordance with (a).
  - (2) Determine what the share of cost should have been for the month in which the increase occurred.
  - (3) Report a potential overpayment if the beneficiary:
    - (a) Received medical services under the CMSP with no share of cost.
    - (b) Met a share of cost which was less than the corrected share of cost.

### 10-016. Changes in Share of Cost Determination Due to Administrative Error

An administrative error which causes the share of cost amount to be in excess of the correct share of cost shall be adjusted in accordance with Section 10-013 (A). If the county fails to take action on an increase in income within the time frames specified in Section 10-015, excess income received after the time the county department should have taken action shall not be reported as a potential overpayment.

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### **Article 11. Period of Eligibility**

- 11-010. Beginning Date of Eligibility
- 11-011. Period of Eligibility
- 11-012. Retroactive Medi-Cal Eligibility

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### Article 11. Period of Eligibility

#### 11-010. Beginning Date of Eligibility

The county department shall determine the beginning date of eligibility as follows:

- (A) The beginning date of eligibility for persons applying for CMSP, and whose eligibility has not yet been determined, shall be either:
  - (1) The first day of the month of application, if all eligibility requirements are met.
  - (2) The first day of the month, subsequent to the month of application, during which the eligibility requirements of the CMSP are met.
- (B) For the purposes of (A), eligibility criteria are considered to be met throughout the month if they are met at anytime during the month.

#### 11-011. Period of Eligibility

The county department shall determine the period of eligibility as follows:

- (A) For persons eligible for CMSP, the period of eligibility shall begin with the date specified in Section 11-010 (A) and shall continue through each successive month during which the beneficiary meets all of the following conditions:
  - (1) Has cooperated with the county department to the extent required by Section 3-035 and 3-037.
  - (2) Has met the property requirements specified in Article 7 at some time during the month.
  - (3) Has met citizenship, residence, and institutional status requirements at some time during the month.
- (B) The period of eligibility shall be modified for any portion of a month in which a person is ineligible due to institutional status.

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- (C) A final date of eligibility shall be established when the county department determines that the person or family no longer meets all eligibility requirements as of the first day of the following month provided that a ten day notice can be given.

### 11-012. Retroactive Medi-Cal Eligibility

A CMSP beneficiary may be determined eligible for Medi-Cal retroactively if determined either as an MN beneficiary based on blindness or disability, or as a PA or Other PA beneficiary retroactive to the date of CMSP eligibility.

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### **Article 12. Benefits Identification Card Use and Issuance**

- 12-010. Benefits Identification Card (BIC) Use
- 12-011. Paper Immediate Need Cards
- 12-012. Locations at Which Cards May be Used
- 12-013. Format of CMSP Card
- 12-014. Cards for Restricted CMSP Benefits to Certain Aliens
- 12-015. Card Issuance by the Department
- 12-016. Limitation on Card Issuance
- 12-017. Verification to Providers of CMSP Eligibility
- 12-018. Retroactive Medi-Cal Card Issuance and Recipient Notification
- 12-019. Report of Eligible Beneficiaries
- 12-020. BIC/Immediate Need Card Signature Requirement

### **Article 12. Benefits Identification Card Use and Issuance**

#### 12-010. BIC Use

- (A) The BIC is not proof of CMSP eligibility. It is used as a permanent form of identification and will be issued even to individuals who may not be eligible for the current month. The BIC issued to CMSP persons is identical to that issued to Medi-Cal beneficiaries, and individuals may use the same card even if they transition from one program to the other (i.e., Medi-Cal to CMSP or CMSP to Medi-Cal).
- (B) Providers may use the BIC to determine eligibility status, clear any share of cost, and to submit electronic billing. Once the BIC is "swiped" through a point of service (POS) device, or eligibility is verified through the Automated Eligibility Verification System (AEVS) or the Claims and Eligibility Real-Time System (CERTS), the provider will receive a message indicating eligibility status, share of cost, and any restrictions placed on the individual's benefits.

#### 12-011. Paper Immediate Need Cards

Some beneficiaries will receive a paper immediate need card instead of a BIC. These cards are valid for 30 days, but the 30 days may cover a two month period (i.e., "Issue Date," 03/03/98, and "Good Thru Date," 04/02/98). The provider will be able to verify eligibility status and share of cost with the paper card in the same manner as the BIC is used.

#### 12-012. Locations at Which Cards May be Used

The BIC or paper immediate need card shall be authorization for payment for CMSP covered services received in any California county and outside of the State in accordance with Section 5-020. The provider of service must be an enrolled Medi-Cal/CMSP provider.

#### 12-013. Format of CMSP Card

A CMSP BIC or paper immediate need card issued by the Department or county department, in accordance with the CMSP contract with the State DHS, shall be used to authorize CMSP services.

## CMSP ELIGIBILITY MANUAL

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### 12-014. Card for Restricted CMSP Benefits to Certain Aliens

An alien who is eligible for restricted CMSP benefits, and who meets all other eligibility requirements, shall receive a BIC or paper immediate need card which entitles him or her to program-covered services to treat an emergency medical condition.

### 12-015. Card Issuance by the Department

- (A) The Department shall issue a BIC to each person who is reported to be eligible for CMSP benefits or otherwise in the CFBU.
- (B) A paper immediate need card may be issued by the county department to individuals eligible for CMSP benefits and who need an identification card prior to receiving a BIC in order to receive covered services.

### 12-016. Limitation on Card Issuance

The county department shall not cause a BIC to be issued or to establish eligibility on MEDS to any CMSP beneficiary more than one year subsequent to the month of service, unless one of the following conditions is met:

- (A) A court action requires that a BIC be issued;
- (B) An adopted administrative hearing states that, due to a county department or Department administrative error, an eligible month was not posted on MEDS or a BIC was not issued so that services could be reimbursed to the provider;
- (C) The Department requests that the BIC card be issued; or
- (D) The county department has determined that an administrative error has occurred.

### 12-017. Verification to Providers of CMSP Eligibility

The county is not to release information concerning an ineligible individual other than the fact that he/she is not eligible for CMSP for a specific month. The county may request that the provider use the POS, AEVS, or other automated system(s) first to determine the individuals eligibility status. If the provider indicates that he/she does not have access to such a method, the counties are required to provide verification of CMSP eligibility to approved providers as follows:

- (A) Counties are to verify CMSP eligibility and provide limited beneficiary eligibility information to all providers of CMSP upon request.
- (B) Only county welfare departments and their out-stationed staff may have access to MEDS terminals for inquiry and update of eligibility information.
- (C) Counties shall not provide MEDS printouts to any provider.
- (D) When a provider requests beneficiary information, the county shall obtain the provider's name, telephone number, and sufficient information to positively identify the beneficiary.
- (E) If the provider is unable to furnish the beneficiary's birth date or SSN, but is able to provide sufficient information such as the name and home address of the beneficiary to enable identification, the county may release beneficiary information.
- (F) The following information may be released if (D) or (E) is met to the provider:
  - (1) County ID number (14 digits).
  - (2) Date of birth.
  - (3) Eligibility status for requested months (i.e., eligible, ineligible, share of cost amount, long-term care status).
  - (4) Other health coverage.

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- (5) Restricted status (if applicable)

### 12-018. Retroactive Medi-Cal Card Issuance and Recipient Notification

If a CMSP recipient is determined eligible for Medi-Cal, retroactive to the CMSP eligibility date, the county shall:

- (A) Revise the beneficiary's eligibility history by:
  - (1) Performing an EW-30 transaction to update the beneficiary's 13-month MEDS history for the appropriate retroactive months.
  - (2) Performing an EW-50 transaction to update the beneficiary's eligibility history for the appropriate retroactive months beyond the 13-month MEDS history.
- (B) Notify the recipient of the change in eligibility status, and advise the beneficiary of the rights and responsibilities under Medi-Cal and the scope of Medi-Cal benefits.

### 12-019. Report of Eligible Beneficiaries

The Department shall compile a monthly report of all persons eligible for CMSP as follows:

- (A) This report shall include all persons:
  - (1) Determined by the county department as eligible for CMSP benefits with no share of cost.
  - (2) Determined by the county department as eligible for CMSP benefits with a share of cost which has not been met.
  - (3) Determined as eligible for CMSP benefits with a share of cost which has been cleared.
- (B) The county department shall report the information specified in (A) (1) and (2) in a timely manner in accordance with Department procedures.

### 12-020. BIC/Immediate Need Card Signature Requirement

- (A) Each recipient of the BIC shall sign the back of the card prior to presenting it to the provider to obtain CMSP covered service.
- (B) For persons who are unable to sign their name, they may make a "mark" in lieu of their signature.
- (C) For persons who are unable to sign their name or make their "mark," the provider shall determine that the individual is unable to sign the card due to a disability.

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### **Article 13. Other Health Coverage**

- 13-010. Other Health Care Coverage--General
- 13-011. Beneficiary Responsibility--Other Health Care Coverage
- 13-012. County Department Responsibility--Other Health Care Coverage
- 13-013. Department Responsibilities--Other Health Care Coverage
- 13-014. Recovery of Third Party Payments
- 13-015. Veteran's Aid and Attendance Payments

## CMSP ELIGIBILITY MANUAL

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### **Article 13. Other Health Care Coverage**

#### 13-010. Other Health Care Coverage--General

A beneficiary shall utilize other available health care coverage if the county determines that such utilization is consistent with both quality of care and fiscal consideration.

#### 13-011. Beneficiary Responsibility--Other Health Care Coverage

An applicant or beneficiary shall:

- (A) Report any entitlement to other health care coverage to the county department at the time of application, reapplication, and at any time that entitlement changes.
- (B) Utilize other health care coverage which is available prior to utilizing CMSP.
- (C) Report services received and information as specified in Sections 13-014(B) and 13-014 (C)(2).

#### 13-012. County Department Responsibility--Other Health Care Coverage

The county department shall:

- (A) Determine the other health care coverage available to an applicant or beneficiary.
- (B) Code MEDS with the other health care coverage using the coding system prescribed by the Department.
- (C) Report the other health care coverage to the Department by completing and submitting the Form DHS 6155 (Health Insurance Questionnaire) when other health care coverage is determined or when any changes occur which may indicate that the coverage has lapsed, terminated, or there has been a change in the scope of benefits.

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### 13-013. Department Responsibilities--Other Health Care Coverage

The Department shall:

- (A) Recover payments made for CMSP services that should be paid through other health care coverage.
- (B) Distribute other health care coverage payments collected which exceed both the CMSP payments for services and the administrative cost incurred in collecting the payment as follows:
  - (1) The difference between the provider's billing and the amount paid through other health care coverage.
  - (2) Funds remaining shall be paid to the legally entitled person or entity.

### 13-014. Recovery of Third-Party Payments

A beneficiary shall reimburse the Department for any payment received for health care services which were paid for by CMSP if the payment received by the beneficiary is made by either of the following:

- (1) A federal or state program; or
  - (2) A legal or contractual entitlement.
- (A) A beneficiary who receives health care services as a result of an accident or injury caused by some other person's action or failure to act shall furnish the Department with an assignment of rights to receive payment for those services, if those services will be billed to CMSP. If the beneficiary is unable to make the assignment, the beneficiary's guardian, attorney, or the person acting on the beneficiary's behalf shall do so.
  - (B) The Department may file a lien against the property of a beneficiary if the beneficiary fails to comply with the requirement in (A).

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- (C) The county department shall provide the following written information to the Department concerning a beneficiary who may meet the conditions in (A):
- (1) The name and address of the beneficiary.
  - (2) The name and address of the attorney handling the case, if any.
  - (3) The name and address of the insurance carriers responsible for payment.

### 13-015. Veterans Aid and Attendance Payments

Veterans Aid and Attendance payments, a veterans benefit designated to purchase aid and attendance services, shall be considered a third-party payment.

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### **Article 14. Overpayments, Fraud, and Improper Utilization**

- 14-010. Potential Overpayments
- 14-011. Fraud
- 14-012. County Action on Potential Overpayments
- 14-013. Action on Overpayments
- 14-014. Demand for Repayment
- 14-015. Failure to Repay
- 14-016. Disposition of Recoupment
- 14-017. Prior Authorization for Improper Utilization

**Article 14. Overpayments, Fraud and Improper Utilization**

**14-010. Potential Overpayments**

Potential overpayments shall be evaluated as follows:

- (A) A potential overpayment occurs when any of the following conditions exist, as limited by (C).
  - (1) A beneficiary has property in excess of the property limits for an entire calendar month.
  - (2) A beneficiary or the person acting on the beneficiary's behalf willfully fails to report facts, and those facts, when considered in conjunction with the other information available on the beneficiary's circumstances, would result in ineligibility or an increased share of cost.
  - (3) A beneficiary has other health care coverage of a type designated by the Department as not subject to post-service reimbursement, and the beneficiary or the person acting on the beneficiary's behalf willfully fails to report such coverage.
- (B) A beneficiary or the person acting on the beneficiary's behalf, after completing the Statement of Facts and the rights and responsibilities forms, willfully fails to report facts and has done any of the following:
  - (1) Provided incorrect oral or written information.
  - (2) Failed to provide information which would affect the eligibility or share of cost determinations.
  - (3) Failed to report changes, within ten days of the change, in circumstances which would affect eligibility or share of cost.
- (C) No potential overpayment exists if a change occurred in a person's circumstances and that change could not have been reflected in the person's eligibility determination in the month that the change occurred, or the following month, because a ten-day notice could not be issued.

### 14-011. Fraud

Fraud occurs if the beneficiary or the person acting on the beneficiary's behalf willfully fails to report facts as specified in Section 14-010 (B) with the intention of deceiving the Department or the county department for the purposes of receiving CMSP benefits to which the beneficiary was not entitled, or to receive benefits at a share of cost less than it should be. An overpayment will have occurred because of these actions.

### 14-012. County Action on Potential Overpayments

The county department shall take the following action when it appears that there may be a potential overpayment:

- (A) Determine the correct eligibility status and share of cost based on the correct income, property, household size, and other circumstances.
- (B) Determine whether a potential overpayment exists in accordance with Section 14-010.
- (C) Determine the amount of the CMSP benefits received during the period when the potential overpayment occurred as specified in Section 14-013 (A)(1).
- (D) In those instances where a potential overpayment is due to the willful failure to report facts and there was a person acting on the beneficiary's behalf:
  - (1) Determine whether the beneficiary is competent to handle his/her own affairs.
  - (2) If the beneficiary is competent, require that the beneficiary act on his/her own behalf in the future.
  - (3) If the beneficiary is not competent, refer the case to the public guardian, conservator, or adult services to ensure that the beneficiary's interests are protected.

### 14-013. Action on Overpayments

The county department shall take the following action on overpayments:

- (A) Upon receipt of a potential overpayment referral, the county shall:
  - (1) Determine the amount of benefits received by the beneficiary for the period in which there was a potential overpayment by contacting the state CMSP unit in writing. This request for claims detail should include the beneficiary name, 14 digit ID number, SSN, and the dates of the potential overpayment.
  - (2) Compute the actual overpayment in accordance with the following:
    - (a) When the potential overpayment was due to excess property, the actual overpayment shall be the lesser of the:
      - (i) Actual cost of services paid by the Department during the period of consecutive months in which there was excess property throughout each month.
      - (ii) Amount of property in excess of the property limit during that period when excess property existed for the entire calendar month(s). This excess amount shall be determined in the same manner as the amount of excess property for spenddown of property purposes in Section 7-030 (C).
    - (b) When the potential overpayment was due to increased share of cost, the actual overpayment shall be the lesser of the:
      - (i) Actual cost of services received in the share of cost period which was paid by the Department.
      - (ii) Amount of the increased share of cost for the share of cost period(s).

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- (c) When the overpayment was due to excess property and increased share of cost, the actual overpayment shall be a combination of (a) and (b).
  - (d) When the potential overpayment was due to other factors which result in ineligibility, the overpayment shall be the actual cost of services paid by the Department.
  - (e) Potential overpayments, due to beneficiary possession of other health coverage that is not subject to post-services reimbursement, shall be processed by the county to determine and recover actual overpayments in all cases. The actual overpayment in such cases shall be the actual cost of services paid by the Department which would have been covered by private health insurance or other health coverage had the coverage been known to the Department. The actual overpayment shall not include any costs which can be recovered directly by the Department from the health insurance carrier or other sources. Such potential overpayment should be processed according to (A) above.
- (3) Refer those cases where there appears to be fraud to the county district attorney.
  - (4) Take appropriate action to collect overpayments in accordance with Section 14-014.

### 14-014. Demand for Repayment

The county shall demand repayment through the issuance of the CMSP 239E notice of action of an overpayment only if it is made as a result of a beneficiary's willful failure to meet the reporting responsibilities as specified in Section 14-010.

- (A) Repayment shall be demanded of a beneficiary who has property or income which meets all of the following conditions:

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- (1) The property can be reasonably converted to cash within one year of the time the overpayment is reported. The value assigned to property other than cash shall be the net market value of the property, less reasonable selling costs.
  - (2) The property is not essential to safe and healthful household operation.
  - (3) The income is above the maintenance need for the size of the CFBU.
- (B) The county may enter into a repayment agreement with a beneficiary who does not currently have property or income that can be used for repayment in accordance with (A) if it appears that such property or income will become available within one year of the date of the discovery of the overpayment.
- (C) The county may take other collection actions as permitted under state law.

### 14-015. Failure to Repay

If the beneficiary refuses to repay the total amount of the overpayment which is subject to a demand for repayment, the county shall proceed to reduce the court judgement to a lien by having an abstract of judgement recorded in any county in which the beneficiary owns real property, pursuant to Section 697.530, Code of Civil Procedures. Thereafter, it shall take all appropriate action to execute the judgement. As one way of satisfying an otherwise uncollectible overpayment, the county may arrive at a reasonable settlement for its demand for repayment with the beneficiary.

### 14-016. Disposition of Recoupment

From the total amount of recouped funds collected from a person who has improperly received or obtained CMSP benefits, the county shall retain an amount equal to its actual costs of recovery and shall forward any remaining funds to the Department for deposit in the CMSP account. The county shall report the following information to the Department for each case where recovery occurs:

- (A) The case number, case ID, and period of overpayment.
- (B) The total amount of the overpayment.

- (C) The total amount of the demand for repayment.
- (D) The amount recovered.
- (E) The actual costs of recovery.
- (F) The net amount forwarded to the Department.

### 14-017. Prior Authorization for Improper Utilization

A beneficiary who has been determined by the Department or the county to be utilizing CMSP benefits improperly, or engaging in practices inimical to the purposes of CMSP, may be subjected to utilization restriction. Utilization restrictions shall not apply in emergency situations. The county shall impose utilization restrictions upon a beneficiary by written order which shall include the reasons for the action. The notice of restricted utilization shall be sent to the beneficiary by regular mail at least ten days prior to the effective date. The utilization restrictions may be any of the following:

- (A) Prior authorization for all CMSP services.
- (B) Prior authorization for specific CMSP services.
- (C) Restriction to utilization of a specific physician prescriber of drugs.

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### **Article 15. Aid-Paid Pending and Fair Hearings**

- 15-010. Fair Hearings
- 15-011. Eligibility Hearings and Aid-Paid Pending
- 15-012. Benefits Hearings

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### **Article 15. Aid-Paid Pending and Fair Hearings**

#### **15-010. Fair Hearings**

A CMSP applicant/beneficiary is entitled to request a hearing if he or she is dissatisfied with any action or inaction of the county department relating to eligibility or benefits provided by the CMSP.

#### **15-011. Eligibility Hearings and Aid-Paid Pending**

- (A) Each county must provide a due process procedure for applicants or beneficiaries who are dissatisfied with any eligibility determination, including the determination of any Share of Cost.
- (B) The structure of the hearing shall be up to each participating individual county and may follow the hearing structures established for the county General Assistance/General Relief program.
- (C) Each eligibility determination or change in the eligibility determination shall have a Notice of Action (NOA) issued per Section 3-033. Any adverse action shall require a NOA to be issued ten days prior to the effective date of action by the county. Each NOA shall have printed on the back the applicant's/beneficiary's right to appeal and shall include information on how to request a hearing from the county, as well as the county address and telephone number.
- (D) Any request for a hearing on eligibility or share of cost issues must be made within 90 days of the NOA.
- (E) Any beneficiary who requests a hearing on eligibility or Share of Cost issues prior to the effective date of the stated change shall receive aid-paid pending. Aid-paid pending granted will result in the same eligibility and share of cost being continued until the hearing decision is rendered by the county.
- (F) The decision of the county hearing officer on eligibility issues shall be final, unless the county due process provides for a second level of appeal. If so, the second level of appeal decision shall be final. A written decision must be provided to the individual.

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- (G) If the applicant or beneficiary requests assistance in filing for a hearing, the county shall provide such assistance as necessary.

### 15-012. Benefits Hearings.

- (A) Any hearing request received by the county on benefits issues will be directed to the Office of Chief Referee, Department of Social Services, 744 P Street, Mail Station 6-100, Sacramento, CA 95814. The individual may also request a hearing by calling (800) 952-5253.